Yet. Dec.

PTO/SB/83 (09-04)
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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	10/230,515
Filing Date	AUGUST 29, 2002
First Named Inventor	EDGAR R. WUNSCHE
Art Unit	1742
Examiner Name	SCOTT R. KASTLER
Attorney Docket Number	9161-14US

RECEIVED
CENTRAL FAX CENTER
NOV 25 2004

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

Please withdraw me as attorney or agent for the above identified patent application, and

☐ all the attorneys/agents of record.

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

☑ the attorneys/agents associated with Customer Number 020988

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: APPLICANT HAS RESPONDED TO OUTSTANDING OFFICE ACTION MAILED AUGUST 20, 2004 BY FACSIMILE DATED NOVEMBER 19, 2004 WITHOUT AGENT'S INPUT. APPLICANT WILL NOT PAY AGENT'S OUTSTANDING ACCOUNTS.

Approved
Jacqualine M. Stone, Director
Technology Center 1700
2/14/05

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	EDGAR R. WUNSCHE (APPLICANT)				
Address	EMPCO (CANADA) LTD. 910 HOPKINS STREET				
City	WHITBY	State	ONTARIO	Zip	L1N 5A9
Country	CANADA				
Telephone	905-666-1744	Fax	905-668-5687		
Signature	J. Connelly				
Name	JOSEPH CONNEELY (AGENT)	Registration No.	54,683		
Date	NOVEMBER 25, 2004	Telephone No.	416-216-2993		

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 dismissed.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

UR

PAPER NO. 6

In re Application of
William A. Crider III et al.
Serial No: 10/230,544
Filed: August 29, 2002
For: PROCESS FOR PREPARING CONSUMABLE GROUND MEAT PRODUCTS FROM SPENT EGG-LAYING HENS

PETITION UNDER
M.P.E.P. 708.02, IV

This is in response to the petition filed August 29, 2002, requesting that the above-identified application be granted Special Status under Section 708.02, IV of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is granted.

The petition is **GRANTED.**

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Troutman Sanders LLP
600 Peachtree Street, NE
Bank of America Plaza, Suite 5200
Atlanta, GA 30308-2216

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date : 8/12/2008
Patent No. : 7,386,328 B2
Inventor(s) : Ternullo et al.
Issue Date : June 10, 2008
Title : **METHOD AND SYSTEM FOR INFRARED DATA COMMUNICATIONS**
Doc./File No. : **12078-146**

Re: Certificate of Correction

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

Respecting the alleged error(s) in item (56) References Cited, under foreign patent documents, the patent is/are printed in accordance with the record, since there is no record of a 1449 or 892 with the reference numbers approved by the examiner. No correction is in order here.

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

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch.

Ernest C. White, *LIE* (703) 308-9390 x122
Mary F. Diggs, *Supervisor* (703) 308-9390 x125
Decisions & Certificates of Correction Branch

BURNS & LEVINSON, LLP
125 SUMMER STREET
BOSTON MA 02110

ecw

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **11/17/08**

TO SPE OF : ART UNIT **2613 (2600)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/230,564** Patent No.: **7,386,238**

Attn: Hanh Phan

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 "Kloba Reference" as requested in the COCIN?**

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

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

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

Comments: Kloba reference is in the record and was cited by examiner.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE

2613

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **11/17/08**

TO SPE OF : ART UNIT **2613 (2600)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/230,564** Patent No.: **7,386,238**

Attn: Hanh Phan

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 "Kloba Reference" as requested in the COCIN?**

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

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

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

Comments: Kloba reference is in the record and was cited by examiner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FLETCHER, YODER
P.O. BOX 692289
HOUSTON, TX 77269-2289

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JAN 0 5 2005

OFFICE OF PETITIONS

In re Patent No. 6,794,699	:	
Issue Date: September 21, 2004	:	
Application No. 10/230,568	:	ON PETITION
Filed: August 29, 2002	:	
Attorney Docket No. MICS:0097/FLE 00-1136	:	

This is a decision on the renewed petition filed December 6, 2004, which is being treated as a petition under 37 CFR 3.81(b)[1] to accept the correction of the assignee on the front page of the above-identified patent.

The petition is granted.

Telephone inquiries concerning this matter may be directed to Wan Laymon at (571) 272-3220. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

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

PATENT-SEA
PERKINS COIE LLP
P O BOX 1247
SEATTLE, WA 98111-1247

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of :
Dinesh Chopra :
Application No. 10/230,602 : DECISION GRANTING PETITION
Filed: August 29, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 108298674US :

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 6, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 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
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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ALCOA CENTER PA 15069-0001

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SEP 10 2007

OFFICE OF PETITIONS

In re Patent No. 6,855,778 :
Issue Date: February 15, 2005 :
Application No. 10/230,607 :
Filed: August 29, 2002 :
Attorney Docket No. 0908.66850 :

ON PETITION

This is a decision on the petition filed August 16, 2007, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "Alcoa Kama, Inc."

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment reflecting the change of name from Kama of Illinois Corporation to Alcoa Kama was recorded on September 5, 2006, **after the date of issuance of this patent**. Accordingly, since the assignment reflecting the change of name was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
OIW 03-05

JOSEPH E. FUNK
PO BOX 661
LONDONDERRY NH 03053

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MAR 1 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Wayne Childs	:	
Application No. 10/230,613	:	ON PETITION
Filed: 29 August, 2002	:	
Attorney Docket No. Childs-2	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 15 February, 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 decision.

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

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

This application became abandoned on 3 September, 2004, for failure to timely respond to the non-final Office action mailed on 2 June, 2004, which set a three (3) month shortened statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 15 December, 2004.

The petition lacks the proper fee. It is noted that petitioner submitted $250.00 with the present petition. The fee for a petition under 37 CFR 1.137(b) (small entity), however, is $750.00. The balance due should be submitted with a renewed petition. The PTO will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.[2]

Petitioner requests the present application be revived for copendency with a continuing application. However, a review of Office PALM records do not indicate that a continuing application was ever filed. As such, the present petition lacks the reply required by 37 CFR 1.137(b)(1).

Petitioner should file a renewed petition indicating the application number and filing date of the continuing application with which petitioner desires copendency.

It is additionally noted that petitioner has included a request for Express Abandonment under 37 CFR 1.138 in favor of a continuing application. As stated above, a review of Office PALM records fails to disclose that a continuing application has been filed. Petitioner should include, with any renewed petition, a Filing Receipt or other evidence that a continuing application has been filed. The Express Abandonment request will be retained the application file, but will not be entered unless and until the filing of a continuing application is confirmed.

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

---

[2] See Krahn v. Comm'r, 15 USPQ2d 1823, 1825 (E.D. Va. 1990).

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

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOSEPH E. FUNK
82 CHASE RD
LONDONDERRY NH 03053

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JUL 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Wayne Childs	:	
Application No. 10/230,613	:	DECISION ON PETITION
Filed: 29 August, 2002	:	
Attorney Docket No. Childs-2	:	

This is a decision on the renewed petition filed on 13 May, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.[2]

The Office apologizes for the delay in responding to the present petition, and regrets any inconvenience to petitioner.

The petition is again **DISMISSED**.

---

[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)).

[2] It is noted that the petition was miscaptioned for Application No. 11/057,998, but has now been associated with the proper application file.

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

This application became abandoned on 3 September, 2004, for failure to timely respond to the non-final Office action mailed on 2 June, 2004, which set a three (3) month shortened statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 15 December, 2004. The petition filed on 15 February, 2005, was dismissed on 15 March, 2005.

Petitioner requests that the application be revived for copendency with a concurrently-filed continuation application. A review of Office PALM records reveals that continuation application No. 11/057,998 was filed on 15 February, 2005.

The petition must be dismissed again because a review of Office financial records reveals that $145.00 of the $500.00 submitted on 13 May, 2005, was refunded by check to petitioner in July, 2005. As such, the petition fee is insufficient, and $145.00 is required to complete the petition fee.

The petition is therefore dismissed without prejudice to reconsideration pending submission of the $145.00 fee due.

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VASILIOS D. DOSSAS
NIRO, SCAVONE, HALLER & NIRO
SUITE 4600
181 WEST MADISON STREET
CHICAGO, IL 60602

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SEP 2 6 2005

OFFICE OF PETITIONS

In re Patent No. 6,786,317	:	
Issued: September 7, 2004	:	
Application No. 10/230,632	:	ON PETITION
Filed: August 29, 2002	:	
Attorney Docket No. 3483	:	

This is a decision on the petition under 37 CFR 1.182, filed May 19, 2005, requesting issuance of a duplicate Letters Patent for the above-identified application.

The file record discloses that the instant application matured into U.S. Patent No. 6,786,317 on September 7, 2004. However, petitioner contends that the patent was never received and it is presumed lost in the mail. The showing required to establish non-receipt of a Letters Patent must include:

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

2. A copy of the docket record where the non-received Letters Patent would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

In the absence of any irregularity there is a strong presumption that the Letters Patent was properly mailed to the applicant at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

Petitioner failed to meet requirement (2), as a copy of the docket record was not included. Accordingly, the $400.00 petition fee will not be waived, but will be charged to petitioner's deposit account as authorized.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this matter may be directed to Paralegal Liana Chase at (571) 272-3206. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 305-9250.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Krystal Paige, P/OPPD, South Tower 8C32 (FAX 703-746-4642)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/14/09

TO SPE OF : ART UNIT 2434

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/230,638
Patent No.: 7,290,288

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
Palm Location 7580

Should the changes be made **Valerie Jackson** **Certificates of Correction Branch**

703-756-1573

Thank You For Your Assistance

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

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

Comments: Approved All

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/KAMBIZ ZAND/ 2434

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

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

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NOV 23 2005

OFFICE OF PETITIONS

In re Application of :
Warren M. Farnworth et al :
Application No. 10/230,647 :
Filed: August 29, 2002 :
Attorney Docket No. 2269-3925.1US(99-0038.1) :

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 17, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 18, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1722 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions

[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

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

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JUL 1 1 2003

OFFICE OF PETITIONS

Applicant: Bailly et al.
Appl. No.: 10/230,652
Filing Date: August 29, 2002
Title: SELF-SYNCHRONIZING, STREAM-ORIENTED DATA ENCRYPTION TECHNIQUE
Attorney Docket No.: TITAN -002XX
Pub. No.: US 2003/0053625 A1
Pub. Date: March 20, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on April 1, 2003 for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the third inventor's name (James L. Massey) is missing from the list of inventors on the front page of the publication.

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

The error in omitting the third inventor's name on the front page of the publication is an Office error, but it is not a material error. The error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The error in the omission of the third inventor's name (James L. Massey) has been corrected in the Office's system and a Corrected Filing Receipt is enclosed. To avoid this type of problem in the future, applicant's representative should request a corrected filing receipt using the facsimile number (703-746-9195) on the Filing Receipt.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

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[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

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

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 2132 to await further examination in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

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

Enclosure: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/28/08

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction for Appl. No.: 10230654 Patent No.: 6885107

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**.

CHANGES TO CLAIMS APPROVED?

D IRVINE
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: _____

SUE PUCVIS — **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.
10/230,728	08/29/2002	John M. Martin	P25866	3729

7055 7590 02/28/2008
GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

EXAMINER
TSANG, FAN S

ART UNIT	PAPER NUMBER
2614	

NOTIFICATION DATE	DELIVERY MODE
02/28/2008	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):

gbpatent@gbpatent.com
pto@gbpatent.com

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10230728	8/29/02	MARTIN ET AL.	P25866

EXAMINER
FAN TSANG

ART UNIT	PAPER
2614	200802251

DATE MAILED:

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

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

Commissioner for Patents

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Certificate

FEB 2 6 2008

of Correction

In re Patent No. MARTIN ET AL.	:	
Issue Date: 11/21/2006	:	**DECISION GRANTING**
Appl No.: 10/230,728	:	**PETITION**
Filed: August 29, 2002	:	*37 CFR 1.324*
For: Petition For Correction of Inventorship	:	

This is a decision on the petition filed 2/26/2007 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.

Fan Tsang
Supervisory Patent Examiner
Art Unit 2614
Technology Center 2600

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MEMORANDUM

DATE: 13 December, 2002

TO: Thomas L. Koontz, Director
Office of Initial Patent Examination

FROM: Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy
Crystal Plaza 4 - 3C23
(703) 305-9282

SUBJECT: Application No. 10/230,730

A petition under 37 CFR 1.182 was filed on 4 November, 2002, requesting that the above-identified application be accorded a filing date of 2 November, 2002, the date of deposit of the item(s) noted as omitted in the Notice of Omitted Item(s) mailed on 7 October, 2002.

In accordance with the procedure set forth in "Changes Relating To An Application Filing Date Under 37 CFR 1.53," page 11 (copy enclosed), the application is being returned to OIPE for issuance of a new filing receipt indicating a filing date of 4 November, 2002, and for repressing using the copy of Pages 31, 33 and 35 supplied on 4 November, 2002, and for issuance of a decision on the petition in accordance with MPEP 1002.02(q)(5).

Upon the mailing of a decision on the petition, the application file should **not** be returned to the Office of Petitions, but should be forwarded for further processing and examination.

OIPE JC176
MAY 17 2004
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P.O. BOX 1450
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DEC 19 2003
TRASKBRITT, P.C.

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UTAH 84110

COPY MAILED
DEC 17 2003
OFFICE OF PETITIONS

In re Application of
Warren Farnworth et al
Application No. 10/230,748
Filed: August 29, 2002
Attorney Docket No. 3400.7US (97-709.7)

ON PETITION

This is a decision on the petition, filed December 15, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 15, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

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

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

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

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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).

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Marcus W. Sprow
Foley & Lardner
777 East Wisconsin Avenue
Milwaukee WI 53202-5367

COPY MAILED

MAR 2 0 2009

OFFICE OF PETITIONS

In re Application :
Huang, et al. :
Application No. 10/230,775 : PATENT TERM ADJUSTMENT
Filed: August 29, 2002 :
Dkt. No.: 039153-0609 :

This is a decision on the "PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(b)," filed June 23, 2008.

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) is **DISMISSED IN PART and HELD IN ABEYANCE IN PART**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed March 24, 2008, indicated a patent term adjustment (PTA) to date of 204 days. The instant application for PTA was timely filed June 23, 2008, at the time of submission of the issue fee payment. Applicants argue that the application is entitled to an adjustment of 252 days, including adjustment pursuant to 37 CFR 1.703(a)(2).

The correct PTA at the time of the allowance is 204 days, as indicated on the Determination of Patent Term Adjustment.

Applicants herein do not dispute the adjustments totalling 498 days. Further, applicants do not dispute the reductions totalling 294 days.

Instead, applicants argue that the application is entitled to an additional adjustment of 12 days in connection with the mailing of the Office communication mailed November 15, 2007.

Applicants' argument has been carefully considered, but is not found convincing. The Office communication mailed November 15, 2007 advised applicants that the reply submitted July 3, 2007 was not fully responsive to the non-final Office action mailed April 4, 2007.

In accordance with 37 CFR 1.702(a)(2), the Office must respond to a reply under 35 USC 132 not later than four months after reply was filed. Applicant did not submit a compliant reply under 35 USC 132 until December 17, 2007, to which a timely reply (Notice of Allowance) was mailed March 24, 2008. Accordingly, applicants are not entitled to further adjustment.

The instant application for patent term adjustment also requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date of the application. Applicants request an additional 36 days in this regard. A decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term for Office failure to issue the patent within three years. *See*, 37 CFR 1.703(b).

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of 37 CFR 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Applicants are reminded that if an application is entitled to an adjustment under 35 USC 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 USC 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 USC 154(b)(1)(B) in determining whether periods of delay overlap under 35 USC 154(b)(2)(A).

Thus, any days of delay for Office issuance of the patent more than three years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. *See*, 35 USC 154(b)(1)(B), 35 USC 154(b)(2)(A), and 37 CFR § 1.703(f). *See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

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).

In view thereof, at the time of allowance, the application was entitled to an adjustment of 204 days (adjustments totalling 498 days less reductions totalling 294 days).

The Office acknowledges receipt of the required application fee of $200.00. No additional fee will be required if applicants are solely requesting reconsideration of additional time related to failing to issue the patent within three years in accordance with 37 CFR 1.702(b).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 15 2010

OFFICE OF PETITIONS

Marcus W. Sprow
Foley & Lardner
777 East Wisconsin Avenue
Milwaukee WI 53202-5367

In re Patent No. 7,521,304
Issued: April 21, 2009
Application No. 10/230,775
Filed: August 29, 2002
Dkt. No.: 039153-0609

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition under 37 CFR 1.705(d), filed on June 19, 2009, 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 701 days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**.

It is noted that the "attachment" referenced in the petition does not appear in the record.

Patentees also request that a decision on this request for reconsideration of patent term adjustment be deferred or delayed. There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance. Accordingly, the request to hold in abeyance a decision on the merits of the instant application for patent term adjustment is **DISMISSED**.

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 30, 2005 and ends on February 13, 2007, the day before the RCE was filed, and not February 14, 2007, the day of filing of the RCE as calculated by patentees. See, 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 533 days.

Further, the period of "A" delay totals 678 days and the period of applicant delay totals 414 days. The period of overlap between the "A" delay and the "B" delay totals 106 days (from February 29, 2-006 to June 14, 2006).

As such, the correct patent term adjustment is 691 days, not 701 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. See 37 CFR 1.323(a)(4).

The Office acknowledges receipt of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required for consideration under 37 CFR 1.705(d).

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 691 days.

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,521,304 B1

DATED : **April 21, 2009** **DRAFT**

INVENTOR(S) : Huang, 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 300 days

Delete the phrase "by 300 days" and insert – by 691 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

HARRIS ZIMMERMAN
SUITE 710
1330 BROADWAY
OAKLAND, CA 94612-2506

COPY MAILED
JUL 1 9 2004
OFFICE OF PETITIONS

In re Application of :
Marilyn Searcy :
Application No. 10/230,780 :
Filed: August 27, 2002 :
Attorney Docket No. 4269 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 17, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (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 on December 2, 2002. A Notice of Abandonment was mailed on May 26, 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

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

R. Bennett Ford
2355 Drusilla Lane
Baton Rouge LA 70809

COPY MAILED

JAN 09 2003

OFFICE OF PETITIONS

In re Application of
Christiansen
Application No. 10/230,792
Filed: August 29, 2002
Attorney Docket No. 8550.060
For: ODOR CONTROL

DECISION GRANTING PETITION

This is a decision on the petition filed October 15, 2002 (certificate of mailing date October 7, 2002), to accord the above-identified application a filing date of August 29, 2002.

On August 29, 2002, the application was deposited. On September 16, 2002, the Office of Initial Patent Examination mailed a Notice stating that drawings were missing and that a filing date would be accorded upon receipt of the missing drawings.

In response, the present petition alleges the drawings were inadvertently omitted. However, the Utility Patent Application Transmittal sheet incorporated by reference the entire disclosure of the parent application. Practitioner, R. Bennett Ford states that the drawings in the parent and the drawings in the above-identified application are identical.

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

Based on the incorporation by reference, it appears that the drawings were present in the Office on August 29, 2002, albeit in the file of another application, i.e., application No. 09/400,229. Therefore, on petition, the application may be accorded the requested filing date of August 29, 2002.

In view of the above, the petition is **granted**. The copy of the drawings submitted with the petition will be used for examination purposes.[1]

The petition fee of $130 will not be refunded since the petition was required to accord the application the requested filing date.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 29, 2002, using the application papers filed on August 29, 2002 and the copy of the drawings filed on October 15, 2002 (certificate of mailing date October 7, 2002).

---

[1] The Office assumes that the drawings are a true and exact copy of the drawings ,submitted in the parent application. If this is not the case, then petitioner must notify the Office. Of course, the primary examiner is expected to compare the instant drawings to the disclosure of the parent application in order to verify that the drawings are, in fact, parts of the disclosure of the prior application.

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

MAILED FROM DIRECTORS OFFICE
MAY 24 2007
TECHNOLOGY CENTER 2800

In re Application of:
Sion C. Quinlan et al.
Serial No.: 10/230,795
Filed: August 29, 2002
Attorney Docket No.: 2008.005900/00-0532

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 June 28, 2004. There is no fee for this petition.

The petition is **GRANTED**.

In a Notice of Abandonment mailed on June 15, 2004, it is indicated that the application was held abandoned for failure to file a proper reply to the Office action mailed on December 8, 2003. The Notice of Abandonment is incorrect, the Office action was actually mailed on November 20, 2003 but was apparently returned to the USPTO on December 8, 2003.

Petitioner asserts that the Office action was never received. Petitioner further asserts that a Change of Address was filed in the USPTO in a letter dated November 11, 2002. The petition includes a copy of the Change of Address letter as well as a copy of the USPTO's reply to the Change of Address letter. The copy of the Change of Address letter is entitled "Request for Customer Number Data Change" dated November 11, 2002 by applicant and the copy of the USPTO's reply is entitled "Notice of Customer Number Record Change" dated December 17, 2002.

Since the change of address was via Customer Number, no application number is associated with the submitted copies and the originals of these papers are not in the present application file. However, what is clear from the copies of these papers is that there was a request to change the correspondence address associated with Customer Number 23720 to 10333 Richmond, Suite 1100, Houston, Texas 77042 and that this request was approved.

A review of application records indicates that the correspondence address history of the application is as follows:

1) began as 7676 Hillmont, Suite 250, Houston, Texas 77040 (hereinafter the Hillmont address) as requested in the transmittal letter of August 29, 2002 filed with the application;

2) was changed to 10333 Richmond, Suite 1100, Houston, Texas 77042 (hereinafter the Richmond address) on November 19, 2002;

3) was inexplicably changed backed to the Hillmont address on December 17, 2002; and
4) was changed back to the Richmond address on May 18, 2004 in response to a Change of Address letter filed on May 11, 2004.

The correspondence address history further indicates that except for when it was inexplicably changed back to the Hillmont address on December 17, 2002, the correspondence address for the application was associated with Customer Number 23720. Although, there is no paper in the application file which specifically requests that the application be linked to Customer Number 23720.

A review of the application file indicates that the Office action of November 20, 2003 was mailed, as based upon the correspondence address history and speculated by petitioner, to the Hillmont address.

It is noted in the petition that if the Office action of November 20, 2003 was mailed to the Hillmont address it "would not have been received by Applicants' representative." Thus, the docket records submitted with the petition in accordance with MPEP section 711.03 (I)(A) and the Delgar V. Schuyler (172 USPQ 513, D.D.C. 1971) to show that the Office action was not received would not be sufficient if the mailing to the Hillmont address was correct.

As noted above, the change of the correspondence address back to the Hillmont address on December 17, 2002 was inexplicable and it cannot be determined with any certainty if that change of address was due to a mere mistake or for some other another reason. What appears to be more certain is that the Office action mailed on November 20, 2003 was returned to the USPTO on December 8, 2003. While there is no envelope from the USPS indicating "returned as undeliverable", there is a copy of the Office action in the application file with a date stamp indicating that the copy of the Office action was received in Technology Center 2800 on December 8, 2003.

The combination of the Office action apparently being returned to the USPTO and that there is no apparent reason for the December 17, 2002 change of the correspondence address back to the Hillmont address, leads one to the conclusion that the change of the correspondence address back to the Hillmont address was a mistake and, as a result of the mistake, the Office action was returned to the USPTO by the USPS as undeliverable. This conclusion is further supported by the fact the "Notice of Customer Number Record Change," which notes the acceptance of the change of the correspondence address associated with Customer Number 23720 to the Richmond address, is dated December 17, 2002, i.e., the same day that the correspondence address in the present application was changed back to the Hillmont Address.

For the above reason, the Notice of Abandonment mailed June 15, 2004 is hereby **VACATED** and the holding of abandonment is withdrawn.

MPEP section 707.13 provides that "(u)pon receipt of the returned Office action, the Technology Center (TC) technical support staff will check the application file record to ensure that the Office action was mailed to the correct correspondence address. If the Office action was not mailed to

the correct correspondence address, it should be stamped "remailed" with the remailing date and mailed to the correct correspondence address."

The Office action of November 20, 2003 will be remailed to the Richmond address noted above restarting the time period for response. The facsimile and telephone numbers on the Office action have been updated in ink.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Robert Oberleitner, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 3400
1420 FIFTH AVENUE
SEATTLE, WA 98101

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JAN 13 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Sion C. Quinlan, et al. :
Application No. 10/230,795 :
Filed: August 29, 2002 :
Attorney Docket No. 2008.005900/00-0532 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 24, 2008, to revive the above-identified application.

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 17, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(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 June 18, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

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

This application is being referred to Technology Center AU 2811 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 M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
Columbia Center
701 Fifth Avenue, Suite 6100
SEATTLE, WA 98104-7043

Mail Date: 04/21/2010

Applicant	: Sion C. Quinlan	: DECISION ON REQUEST FOR
Patent Number	: 7602039	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/230,795	: 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 **1201** 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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CATERPILLAR INC.
100 N.E. ADAMS STREET
PATENT DEPT.
PEORIA IL 61629-6490

In re Application of :
Andrew J. Sewell :
Application No. 10/230,811 : ON PETITION
Filed: August 29, 2002 :
Attorney Docket No. 01-823 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 5, 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 Restriction Requirement mailed December 15, 2004, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 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 an election; (2) the petition fee of $1,500.00; and (3) an adequate statement of unintentional delay.

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

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. If the person signing the 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 petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the 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 petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3213.

The application file is being forwarded to Technology Center 3700 Art Unit 3726.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: Roland G. McAndrews
Finnegan, Henderson, Farabow,
Garrett & Dunner, LLP
901 New York Avenue, N.W.
Washington, DC 20001-4413

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TRASKBRITT
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SALT LAKE CITY, UTAH 84110-2550

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Terry L. Gilton :
Application No. 10/230,838 :
Filed: August 29, 2002 :
Attorney Docket No. 4374.4US(99-0667.4)

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

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

This matter will be forwarded to Technology Center AU 1763 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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CHRISTOPHER J. WHEWELL
WESTERN PATENT GROUP
6020 TONKOWA TRAIL
GEORGETOWN, TX 78628

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JAN 3 1 2007

OFFICE OF PETITIONS

In re Application of :
Jean E. Whewell :
Application No. 10/230,852 : ON PETITION
Filed: August 29, 2002 :
Attorney Docket No. :

This is a decision on the petition, filed July 13, 2006 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 in a timely manner to the non-final Office action mailed February 8, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 9, 2005.

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

The petition submitted on July 13, 2006 was not signed; therefore, the petition is dismissed.

The Request for Continued Examination (RCE) filed with the petition on July 13, 2006 is considered improper. See 37 CFR 1.114. The $395 RCE fee is being credit to petitioner's deposit account.

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

By mail:	Mail Stop PETITION Commissioner for Patents 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

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Alexandria, VA 22313-1450
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CHRISTOPHER J. WHEWELL
WESTERN PATENT GROUP
6020 TONKOWA TRAIL
GEORGETOWN, TX 78628

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JUN 22 2007

OFFICE OF PETITIONS

In re Application of :
Jean E. Whewell :
Application No. 10/230,852 : ON PETITION
Filed: August 29, 2002 :
Attorney Docket No. :

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

The petition is **GRANTED**.

Since this application was abandoned for failure to timely reply to the nonfinal Office action of February 8, 2005, the Examiner had no procedural authority with respect to the abandoned application. See Lorenz v. Finkl, 333 F.2d 885,891, 142 USPQ 26, 30 (CCPA 1964). Therefore, the examiner was without authority to act further in the case absent a grantable petition reviving the application. Nevertheless, in view of this decision on petition, the subsequent action taken by the examiner, i.e., mailing of the September 26, 2006 nonfinal Office action has been ratified.

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

This matter is being referred to Technology Center AU 3627 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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CRAIG W. RODDY
HALLIBURTON ENERGY SERVICES
P.O. BOX 1431
DUNCAN, OK 73536-0440

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OFFICE OF PETITIONS

In re Application of	:	
Jiten Chatterji et al	:	DECISION ON PETITION
Application No. 11/230,862	:	TO MAKE SPECIAL UNDER
Filed: September 20, 2005	:	37 CFR 1.102(c)(1)
Attorney Docket No. 2003-IP-011145U1D1	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 20, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by Jiten Chatterji attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3676 for action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

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GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO, CA 94080

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OFFICE OF PETITIONS

In re Application of	:
Roman Urfer et al	:
Application No. 10/230,865	: DECISION ON PETITION
Filed: August 28, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. GENENT.84FWDV1	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 25, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 08/253,937, filed June 3, 1994, as 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 benefit of 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.

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

This application is being forwarded to Technology Center Art Unit 1649 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

cc:

Heller Ehrman LLP
275 Middlefield Road
Menlo Park, CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 14 2004

ROBINS & PASTERNAK LLP
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO CA 94303

In re Application of	:
Keiya Ozawa et al	:
Serial No.: 10/230,875	: PETITION TO MAKE SPECIAL
Filed: August 28, 2002	:
Attorney Docket No.: 0800-0028	:

This is in response to the petition filed September 30, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

The application will be forwarded to the examiner for further consideration.

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

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

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ROBINS & PASTERNAK LLP
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO CA 94303

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JUN 14 2007

OFFICE OF PETITIONS

In re Application of :
Keiya Ozawa et al. :
Application No. 10/230,875 : DECISION ON PETITION
Filed: August 28, 2002 : UNDER 37 C.F.R. §1.137(A)
Attorney Docket Number: 0800- :
0028 :
Title: COMPOSITIONS AND METHODS :
FOR TREATING NEURODEGENERATIVE :
DISEASES :

This is a decision on the petition filed April 19, 2007, pursuant to 37 C.F.R. §1.137(a)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed August 9, 2006, which set a shortened statutory period for reply of three months. No

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

(1) the required reply (in a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof);
(2) the petition fee;
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and;
(4) a terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to paragraph (d) of this section.

extensions of time under the provisions of 37 C.F.R §1.136(a) were obtained, and no responses were received. Accordingly, the above-identified application became abandoned on November 10, 2006. A notice of abandonment was mailed on February 21, 2007.

With the present petition, Petitioner has asserted that a response to this communication was submitted on February 9, 2007.

The electronic record has been reviewed, and it is clear that a notice of appeal was filed on February 12, 2007, along with the required fee, a petition for a three-month extension of time as well as the associated fee. The submission contains a certificate of mailing dated February 9, 2007.

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

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the notice of appeal which was received on February 12, 2007 can be processed. The Notice of Appeal, received on February 12, 2007, has been entered and made of record. Accordingly, **the two-month period for filing the Appeal Brief, in triplicate, accompanied by the fee required by law, runs from the mailing date of this decision.**

Petitioner has requested the refund of the petition fee. The rules and statutory provisions governing the operations of the US Patent and Trademark Office require payment of a fee on filing each petition[2]. Payment of the $500 petition fee is acknowledged. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

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

---

2 35 USC §41(a)(7).

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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THELEN REID & PRIEST LLP
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SAN JOSE CA 95164-0640

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OFFICE OF PETITIONS

In re Application of	:	
Victor Batinovich	:	
Application No. 10/230,904	:	ON PETITION
Filed: August 28, 2002	:	
Attorney Docket No. AIS-P1207	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed April 11, 2006.

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

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed June 1, 2004. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above identified application became abandoned on September 2, 2004. A Notice of Abandonment was mailed on March 25, 2005.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an amendment.

The application file is being forwarded to Group Art Unit 1753 for consideration of the amendment filed April 11, 2006.

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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McGinn & Gibb PLLC
2568 A Riva Road
Suite 304
Annapolis, MD 21401

Mail Date: 04/21/2010

Applicant	: Manoj Kumar	: DECISION ON REQUEST FOR
Patent Number	: 7617122	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/230,910	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/28/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1839** 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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LEFFERT JAY & POLGLAZE, P.A.
P.O. BOX 581009
MINNEAPOLIS, MN 55458-1009

In re Application of
Andrei Mihnea and Lakhani Vinod
Application No.10/230,927
Filed: August 29, 2002
Attorney Docket Number: 400.186US01
Title of Invention: METHOD FOR REDUCING DRAIN DISTURB IN PROGRAMMING

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed April 3, 2003.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition attest a copy of the application was sent to non-signing inventor's last known address. Receipt of the application papers was confirmed via a signed return receipt. The non-signing inventors' failure to respond to the application mailing sufficiently establishes that they refuse to execute the application papers.

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

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

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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

Mail Date: 04/27/2010

Applicant	: Fernando Gonzalez	: DECISION ON REQUEST FOR
Patent Number	: 7608927	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/230,938	: 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 **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No. 042004

Wendy W. Koba, Esq.
P.O. Box 556
Springtown, PA 18081

APR 30 2004

In re Application of
Freund *et al.*
Appl. No. 10/230,942
Filing Date: August 29, 2002
Atty Docket No. 150031/2000

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR § 1.313

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

Patent and Trademark Office records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Telephone inquires related to this decision should be directed to Ed Glick, Supervisory Patent Examiner, at (571) 272-2490.

The above-identified application is being forwarded to the examiner for appropriate action.

Janice A. Falcone

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

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FOLEY & LARDER LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO, IL 60610-4764

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MAY 22 2008

OFFICE OF PETITIONS

In re Application of :
Everette C. Burdette et al :
Application No. 10/230,949 :
Filed: August 29, 2002 :
Attorney Docket No. 23774/102 :

ON PETITION

This is a decision on the petition filed January 17, 2008 under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/004,753.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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NORMAN E. LEHRER, P.C.
1205 NORTH KINGS HIGHWAY
CHERRY HILL NJ 08034

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OFFICE OF PETITIONS

In re Application of :
Papadopoulos et al :
Application No. 10/230,955 : ON PETITION
Filed: August 29, 2002 :
Attorney Docket No. 6032-1 :

This is a decision on the petition under 37 CFR 1.182, filed April 26, 2004, to change the order of the names of the inventors.

The petition is **GRANTED**.

A corrected Filing Receipt with the desired Order of Inventorship accompanies this decision on petition.

The application is being referred to the Office of Publications.

Karen Creasy

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

ATTACHMENT: CORRECTED FILING RECEIPT

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Hogan & Hartson
500 South Grand Avenue, Suite 1900
Los Angeles, CA 90071-2611

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APR 1 6 2003

OFFICE OF PETITIONS

In re Application of
Chen et al.
Application No. 10/230,971
Filed: August 29, 2002
Attorney Docket No. 81916.0010

This is in response to the petition under 37 CFR 1.47(a), filed November 18, 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(a)" 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).

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; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) and (2) set forth above.

As to item (1), Rule 47 applicant has failed to show or provide evidence of diligent efforts to reach the non-signing inventor and has failed to adequately show or provide proof that the non-signing inventor has refused to sign the declaration after having been presented with a copy of the application papers (specification, claims, and drawings). Before an allegation can be made that the inventor has refused to sign an oath or declaration, the inventor must have been presented with a copy of the application papers. The applicable statute (35 USC 116) requires that a "diligent effort" have been

expended in attempting to find or reach the non-signing inventor(s). See MPEP 409.03(a). The current record fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate inventor Wan Soo Chee such that the declaration can be accepted under 37 CFR 1.47(a).

Petitioner has submitted a letter from Federal Express dated November 1, 2002 and a declaration of facts with the instant petition, both indicating that attempts made to deliver a package to inventor Wan Soo Chee on October 28, 2002 and October 29, 2002 were unsuccessful because no one was available when the first attempt was made. When the second attempt was made, it was discovered that inventor Chee had moved. The declaration of facts also indicates that Hogan & Hartson, counsel of record, has no other address or forwarding address available for inventor Chee. Where inability to find or locate a named inventor(s) is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made to locate the inventor. More specifically, petitioner should demonstrate attempts made to locate inventor Chee. In this regard, does petitioner have access to inventor Chee's employee records? If so, petitioner should indicate what an inspection of the records reveals as to a current address, forwarding address, or an address of the nearest living relative. What does inspection of the phone directories for those address locations reveal? Have any of inventor Chee's former co-workers kept in touch with him? Has petitioner made an inspection of the telephone directories and or any regional or national registry(s). Has petitioner attempted to locate inventor Chee on the internet? Copies of results of the search must be referred to in any renewed petition. See MPEP 409.03(d). If inventor Chee is located, then a complete copy of the application papers (specification, claims, drawings, oath, etc.) should be mailed to inventor Chee's address, return receipt requested, along with a cover letter of instructions, which includes a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. If the papers are returned and all other attempts to locate or reach the inventor, e.g., through personnel records, co-workers, E-mail, the Internet or the telephone, etc., continue to fail, then applicant will have established that inventor Chee cannot be reached or has refused to join in the application. The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein.

If inventor Chee is located and orally refuses to join in the application, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. If,

on the other hand, if petitioner receives an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration. When it is concluded by the rule 47 applicant that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted. Whenever an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

As to item (2), no oath or declaration has been presented in compliance with 37 CFR 1.63 and 1.64. In this regard, the oath or declaration fails to provide the residence address of each of the joint inventors. It is noted that the business address was used as the residence address for each inventor. It is also noted that the last known address for inventor Wan Soo Chee listed in the declaration of facts differs from the address listed in the declaration pursuant to 1.63. The addresses provided should be the last known addresses at which the inventors customarily receive mail. See MPEP § 605.03. Ordinarily, the last known address will be the last known residence of the non-signing inventor(s). If the nonsigning inventors' last known addresses are the company addresses, petitioner herein should ensure that the company addresses are still viable addresses.

In order to expedite consideration, petitioner may wish to submit the renewed petition under 37 CFR 1.47(a) by facsimile transmission to the telephone number indicated below and to the attention of the undersigned.

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

By mail: Mail Stop Petitions
P.O. Box 1450
Arlington, VA 22313-1450

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

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

Telephone inquiries related to this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks

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

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Paper No. 9

Hogan & Hartson, L.L.P.
500 S. Grand Avenue
Suite 1900
Los Angeles, CA 90071-2611

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OFFICE OF PETITIONS

In re Application of :
Hsing-Hsin Chen, et al. :
Application No. 10/230,971 :
Filed: August 29, 2002 :
Attorney Docket No. 81916.0010 :

ON PETITION

This is in response to the "Request for Reconsideration of Petition under 37 CFR 1.47(a)", filed April 5, 2004.

This is also a decision on the petition under 37 CFR 1.137(b), filed April 5, 2004, to revive the above-identified application.

The petitions are **GRANTED**.

Petitioner has shown that the non-signing inventor cannot be located and is therefore, unable 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.

Petitioner tendered an additional $130 petition fee with the instant petition. Since petitioner submitted the fee with the initial Rule 47 petition, the second fee is unnecessary. The $130 petition fee will be credited to petitioner's deposit account in due course.

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

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

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

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Mr. Wan Soo Chee
5th Floor, No. 53
Tse Yun Street
Taipei 110 Taiwan

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OFFICE OF PETITIONS

In re Application of
Hsing-Hsin Chen; and Wan Soo Chee
Application No. 10/230,971
Filed:
For: August 29, 2002

Dear Mr. Chee:

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

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

Telephone inquiries regarding this communication should be directed to Marianne Morgan at (703) 306-3475. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

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

cc: Hogan & Harston, L.L.P.
500 S. Grand Avenue
Suite 1900
Los Angeles, CA 90071-2611

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/21/2010

Applicant	: Jose Carlos Garcia-Franco	: DECISION ON REQUEST FOR
Patent Number	: 7668946	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/231,025	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/30/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2031** 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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Moser, Patterson, & Sheridan, L.L.P.
Suite 1500
3040 Post Oak Blvd.
Houston, TX 77056

In re Application of	:	
Szu-Yi Chou	:	
Application No. 10/231,063	:	DECISION ON PETITION
Filed: August 28, 2002	:	TO WITHDRAW
Attorney Docket No. SAMG/0004	:	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 18, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because 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 below-listed address until otherwise notified by applicant.

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

Terri Williams

David Bucci
Petitions Examiner
Office of Petitions

cc: **Szu-Yi Chou**
468 S. Taaffe Street
Sunnyvale, CA 94086

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 3700.

OCT 20 2004

Patrick J. Hofbauer
Hofbauer Associates
1455 Lakeshore Road, Suite 205N
Burlington, Ontario
Canada L7S 2J1

In re Application of	:	
SILVER	:	
Serial No.10/231,069	:	Decision on
Filed August 30, 2002	:	Petition
For: Convertible Ventilated Pants	:	

A Notice of Abandonment for the above-identified application was mailed July 28, 2004. Applicant filed a petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 on August 6, 2004. In the petition applicant provides a detailed review of the facts surrounding the mailing of Office Actions in the application. Further, there is reference to discussions with various Office personnel attempting to correct errors that were made by the USPTO. A review of the USPTO records indicates that the chain of events set forth by applicant is correct.

In view of the above, the Notice of Abandonment mailed July 28, 2004 is in error. The **Holding of Abandonment is Withdrawn**. This application is being forwarded to the examiner for appropriate action.

John E. Kittle, Director
Groups 3730 & 3760
Phone: (703) 308-0873
Fax: (703) 305-3590

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/231,146	08/29/2002	Jason Charles Pelly	282506US8X	3746

22850 7590 11/20/2007
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
GEE, JASON KAI YIN

ART UNIT	PAPER NUMBER
2134	

NOTIFICATION DATE	DELIVERY MODE
11/20/2007	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):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

MAILED

NOV 19 2007

TECHNOLOGY CENTER 2100

In re Application of:
Charles Pelly et al.
Application No. 10/231,146
Filed: August 29, 2002
For: Embedding Data in Material

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

This is a decision on the petition filed October 3, 2007 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the Final rejection mailed September 5, 2007.

The petition is **DISMISSED AS MOOT**.

On filed October 3, 2007, applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the examiner in relation to the Final Office action mailed September 5, 2007. In the petition, applicant's counsel alleged that the amendment of July 3, 2007 would not necessitate a new grounds of rejection of claims 1+ under 35 U.S.C. § 103 over Hyakutake et al in view of Akiyama (Bean or Schreiber was used as the secondary reference in the first action) as it only rolled the features of claims 11 and 12 ; thus rendering the Final Office action premature.

On October 31, 2007, a proper request for continued examination was filed. A proper RCE lifts the finality of the previous office action.

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

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3612.

Tod Swann
Workgroup Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and
Information Security

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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

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OFFICE OF PETITIONS

In re Application of
Kyeong Jin Kim et al
Application No. 10/231,167
Filed: August 30, 2002
Attorney Docket No. 8733.029.10-US

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 September 8, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/326,415, filed June 4, 1999 set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The instant pending application was filed on August 30, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

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

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

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

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

This application is being forwarded to Technology Center Art Unit 2871 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed nonprovisional Application No. 09/326,415, filed June 4, 1999.

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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APR 8 2004

In re Application of	:	
Takao Iizuka et al.	:	
Serial Number : 10/231,195	:	WITHDRAWAL FROM ISSUE
Filed : August 30, 2002	:	*37 CFR 1.313*
For : LARGE BOTTLE WITH INSERT-TYPE	:	
HANDLE AND METHOD	:	

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee to 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.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, VA 22320

cc:Allowed Files, Pk3-910

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OFFICE OF PETITIONS

In re Patent No. 6,685,282	:	
Issued: February 3, 2004	:	DECISION ON PETITION
Application No. 10/231,205	:	UNDER 37 CFR 1.55(a) AND
Filed: August 29, 2002	:	REQUEST FOR CERTIFICATE
Attorney Docket No. 11519-006001	:	OF CORRECTION

This is a decision on the petition filed October 27, 2004, under 37 CFR 1.55(a) for late entry of a certified copy of the priority application after the patent has been granted. The petition was concurrently filed with a Request for Certificate of Correction to insert the aforementioned priority information.

The petition considered under 37 CFR 1.55(a) is **dismissed as moot.**

The request for Certificate of Correction is **dismissed as moot.**

Under the rule (37 CFR 1.55 (a)(2)), an applicant who wishes to secure the right of priority must comply with certain formal requirements within a time specific. If these requirements are not complied with the right of priority is lost and cannot thereafter be asserted.

Inspection of the instant record reveals that although a claim for foreign priority under 35 U.S.C. § 119 was presented in a transmittal letter filed on August 29, 2002, the certified copy of the priority document was not filed until subsequent to the issuance of the above-captioned patent.

Specifically, the requirements of the rule are (a) that the applicant must file a claim for the right and (b) he or she must also file a certified copy of the original foreign application, and (c) these papers must be filed within a certain time limit. The maximum time limit specified in the rule is that the claim for

priority and the priority papers must both be filed before the patent is granted. See 37 CFR 1.55(a)(2). If the required papers are not filed within the time limit set the right of priority is lost. Since the certified copy of the priority document was not, as required by the rule, filed in the above-identified application until after the patent was granted, the petition must be dismissed.

With respect to the concurrently filed request for Certificate of Correction, a claim to foreign priority benefits cannot be perfected via a Certificate of Correction if the requirements of 35 U.S.C. § 119 and 37 CFR 1.55 have not been satisfied in the patented application or, if applicable, its parent. See In re Van Esdonk, 187 USPQ 671 (Comm'r. Pat.1975). As such, the request for a Certificate of Correction must also be dismissed as moot. *See* MPEP 201.16.

However, a reissue was granted in Brenner v. State of Israel, 400 F.2d 789; 158 USPQ 584 (D.C. Cir. 1968), where the only ground urged was applicant's failure to file the certified copy of the original foreign application under 35 U.S.C. § 119 before the patent was granted. Under the circumstances of this case, petitioner may wish to seek relief from his predicament by way of reissue under 35 USC § 251. Id. See also 65 *F.R.* 57024, supra; MPEP §§ 201.16, 1402.

The Office finance records indicate that petitioner paid a $1,370.00 surcharge under § 1.17(t), instead of the $130.00 processing fee under § 1.17(i) due upon filing a petition under 37 CFR 1.55(a). The $130.00 processing fee will not be refunded because the petition has been considered, notwithstanding the decision. See Ex parte VENTURA CITRUS ASSOCIATION, 71 USPQ 103, 104 (Comm'r Pat. 1946). However, the difference of the fees in the amount of $1,240.00 and the $100.00 fee for the Request for Certificate of Correction will be credited to petitioner's deposit account in due course.

Telephone inquiries should be directed to Senior Petitions Attorney Christina Tartera Donnell at (571) 272-3211.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Ryan, Mason & Lewis, LLP
Suite 205
1300 Post Road
Fairfied, CT 06430

Mail Date: 07/02/2010

Applicant	: Habib Riazi	: DECISION ON REQUEST FOR
Patent Number	: 7639654	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/231,218	: 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 **2174** 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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SUITE 370
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Aoshima et al.	:	
Application No. 10/231,254	:	DECISION ON PETITION
Filed: August 30, 2002	:	
Attorney Docket No. TSM-25	:	

This is a decision on the petition, filed November 30, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to file a proper reply to the Office action of June 28, 2006, which set a three (3) month shortened statutory period for reply. A three month extension of time pursuant to 37 CFR 1.136(a) was obtained . A reply was due on or before December 28, 2006. A reply in the form of a Notice of Appeal, claims and amendment were filed on December 28, 2006. On February 9, 2007, a Communication Re: Appeal was mailed indicating the Notice of Appeal filed on December 28, 2006 is not acceptable because the no claims had been rejected twice pursuant to 37 CFR 41.31(a)(1) . A Notice of Abandonment was mailed October 5, 2007.

A review of the record shows that the Notice of Abandonment held the application abandoned for failure to file an appeal brief in response to a Notice of Appeal. However, since the filing of the Notice of Appeal was premature, an Appeal Brief was not required. Further review of the record shows that a timely amendment was also filed in response to the non-final Office action.

Accordingly, it is concluded that the amendment was timely received in the USPTO.

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

This application is being referred to Technology Center AU 2132 for appropriate action in the normal course of business on the reply received with petition.

Charlema Grant
Petitions Attorney
Office of Petitions

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Houston, TX 77056

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MAR 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Szu-Yi Chou	:	
Application No. 10/231,298	:	DECISION ON PETITION
Filed: August 28, 2002	:	TO WITHDRAW
Attorney Docket No. SAMG/0006	:	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 21, 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 Ya-Fen Chen 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 Szu-Yi Chou at the address indicated below.

There is no outstanding Office action at this time.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Szu-Yi Chou**
468 S. Taaffee Street
Sunnyvale, CA 94086

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30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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AUG 2 5 2005

OFFICE OF PETITIONS

Applicant: Yamamoto et al.
Appl. No.: 10/231,302
Filing Date: August 30, 2002
Title: METHOD FOR ANALYZING BASE SEQUENCE OF NUCLEIC ACID
Pub. No.: US 2003/0082602 A1
Pub. Date: May 1, 2003

This is a decision on the written request for Corrected Publication filed on March 30, 2005, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains the disclosure of an application that was filed in an Information Disclosure Statement submitted in the application.

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."

The request for corrected publication received on March 30, 2005, was not timely filed under 37 CFR 1.221 (b).

Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in due course, unless the application is allowed and the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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Commissioner for Patents
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Washington, D.C. 20231
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Paper No. 6

KNOBBE MARTENS OLSON & BEAR
LLP
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IRVINE, CA 92614

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MAY 0 6 2003

OFFICE OF PETITIONS

In re Application of :
Tu et al. :
Application No. 10/231,342 :
Filed: August 28, 2002 : DECISION ON PETITION
Attorney Docket No. :
GLAUKO.017A :

This is a decision on the Petition to Assert Submission of 13 Pages of Drawings in Response to Notice of Incomplete Nonprovisional Application Filed Under 37 CFR 1.53(b), filed December 3, 2002 (Certificate of Mailing dated October 28, 2002), requesting the application be accorded a filing date of August 28, 2002, including 13 sheets of drawings as part of the original disclosure.

The application was filed on August 28, 2002. However, on September 30, 2002, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application informing Petitioner that a filing date had not been accorded the application because the application had been deposited without drawings. Petitioner subsequently submitted drawings (along with the instant petition), which were received in the Office, on November 1, 2002. In response to receipt of the drawings, the Office of Initial Patent Examination mailed a Withdrawal of Previously Sent Notice, a Filing Receipt indicating November 1, 2002 as the filing date for the application, and a Notice to File Missing Parts of Nonprovisional Application.

Petitioner argues that 13 sheets of drawings described in the specification were included with the application filed initially, on August 28, 2002, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of 13 sheets of drawings filed on August 28, 2002.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of 13 sheets of drawings by this Office on August 28, 2002. Petitioner has also re-submitted 13 sheets of drawings described in the specification, with the instant petition.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "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.

The petition is **granted**. The Notice of Incomplete Nonprovisional Application, mailed September 30, 2002, as it relates to the drawings, is hereby withdrawn.

No petition fee is required. A refund of the petition fee has been scheduled.

Receipt is also hereby acknowledged for the executed Declaration and filing fee on December 3, 2002 (Certificate of Mailing dated November 14, 2002).

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of August 28, 2002, using the original application papers filed and 13 sheets of drawings submitted on November 1, 2002. The Office record should reflect that 13 sheets of drawings were present on filing.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Derek L. Woods
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

DICKSTEIN SHAPIRO LLP
1177 AVENUE OF THE AMERICAS 6TH AVENUE
NEW YORK NY 10036-2714

In re Application of	:	
Ted E. Williams et al	:	
Application No. 10/231,384	:	ON PETITION
Filed: August 29, 2002	:	
Attorney Docket No. 9824-133-999	:	

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

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

The examiner of Technology Center AU 2825 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new 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. 020403

Anthony C. Mamo
1515 E. Central Rd., Apt. 264
Arlington Heights, IL 60005

APR - 3 2003

In re Application of:
Anthony C. Mamo
Application No. 10/231,387
Filed: August 29, 2002
For: ATMOSPHERIC COLD MEGAWATTS (ACM) SYSTEM FOR GENERATING ENERGY FROM DIFFERENCES IN ATMOSPHERIC PRESSURE

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed August 29, 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.) § 708.02, Section IV: Applicant's Age, Item V: Environmental Quality and Item VI: Energy[1].

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

The petition includes a copy of the driver's license for Anthony C. Mamo showing that applicant is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

The application is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering

1 The petition under Section IV has been treated herein.

applications, and s/he should make a rigid search for such, s/he 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, s/he should consider such application simultaneously with this application and should state in the official letter of such application that s/he is taking it out of its turn because of possible interference.
Should an appeal be taken in this application or should this application become involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

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

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

Clayton E. LaBalle

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

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JAMES RAY & ASSOCIATES
2640 PITCAIRN ROAD
MONROEVILLE PA 15146

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OFFICE OF PETITIONS

In re Application of :
Ulf Rothman :
Application No. 10/231,400 : ON PETITION
Filed: August 19, 2002 :
Attorney Docket No. SG 02357 :

This is a decision on the petition filed May 22, 2006, to revive the above identified application under 37 CFR 1.137(b)[1].

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

This application became abandoned on December 11, 2003, for failure to file a timely response to a Restriction Requirement mailed November 10, 2003, which set a one month shortened statutory period for reply. A response and a one month extension of time request were filed February 17, 2004 however, a three month extension of time would have been in order to make the response timely and to avoid abandonment. Accordingly, in the absence of a proper extension of time request and in the absence of a proper response filed in a timely manner, a Notice of Abandonment was mailed November 9, 2004.

The petition fee in the amount of $750.00 has been applied to the finance records for the instant patent application. A refund request will be processed for the two month extension of time request filed with the instant petition because pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $510.00 extension of time fee submitted with the petition on May 22, 2006, was subsequent to the maximum

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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)).

period obtainable for reply, this fee is unnecessary

The response to the Restriction Requirement filed February 17, 2004 will be referred to Technology Center 1654 for further processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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APR 15 2004

AVENTIS PHARMACEUTICALS INC.
PATENT DEPARTMENT
ROUTE #202-206
P.O. BOX 6800
BRIDGEWATER NJ 08807-0800

In re Application of	:
Gerhard Jaehne et al	:
Serial No.: 10/231,418	: PETITION DECISION
Filed: August 29, 2002	:
Attorney Docket No.: DEAV2001/0048	:

This is in response to the petition under 37 CFR 1.144, filed January 12, 2004, requesting withdrawal of an improper restriction requirement. This is also in response to the petition under 37 CFR 1.103(a) requesting suspension of prosecution.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on August 29, 2002, and contained claims 1-14. On July 29, 2003, the examiner mailed an Office action to applicants requiring restriction between the claims, as follows:

Group I - Claims 1-4(in part), drawn to Formula 1 having no heteroring substituent and X is S;

Group II - Claims 1-3(in part), drawn to Formula 1 having pyridine as the heteroring substituent and X is S, SO or SO_2;

Group III - Claims 1-3(in part), drawn to Formula 1 having an imidazole as the heteroring substituent and X is S, SO or SO_2;

Group IV - Claims 1-3(in part), drawn to Formula 1 having an oxazole or isoxazole as the heteroring substituent and X is S, SO or SO_2;

Group V – Claims 1-3(in part), drawn to Formula 1 having an imidazole as the heteroring substituent and X is S, SO or SO_2;

Group VI – Claims 1-3(in part), drawn to Formula 1 having a thiazole or isothiazole as the heteroring substituent and X is S, SO or SO_2;

Group VII – Claims 1-3(in part), drawn to Formula 1 having a furyl as the heteroring substituent and X is S, SO or SO_2;

Group VIII – Claims 1-4(in part), drawn to Formula 1 having no heteroring substituent and X is SO_2;

Group IX – Claims 1-4(in part), drawn to Formula 1 having no heteroring substituent and X is SO;

Group X - Claims 1-4(in part), drawn to Formula 1 having any other heterocycle as the heteroring substituent;

Groups XI-XX – Claim 5, drawn to a pharmaceutical composition based on the compound of Groups I-X;

Groups XXI-XXX – Claims 6-9 and 12-13, drawn to methods of treating mammals for weight control using the compounds of Groups I-X;

Groups XXI(a)-XXX(a) – Claims 6-9 and 12-13, drawn to methods of prevention weight problems in mammals using the compounds of Groups I-X;

Groups XXXI-XL – Claims 10-11 and 14, drawn to methods of treating diabetes II using the compounds of Groups I-X; and

Groups XXXI(a)-XL(a) – Claims 10-11 and 14, drawn to methods of preventing diabetes II using the compounds of Groups I-X.

The examiner distinguished the groups by appropriate reasoning further stating that the fused ring indanone core represented by Formula I is very well known and would not provide a basis for restriction and that the various side groups, especially those containing herteroatoms, would control classification.

Applicants replied on September 29, 2003, making minor amendments to claims 1-4 and responding to the restriction requirement by electing Group VIII, with traverse and providing a number of arguments against the dividing up of the Markush groupings of the claims.

The examiner mailed a non-Final Office action to applicants on November 10, 2003, replying to the traversal by reiterating the patentable distinction and burdensome search presented by the claims. The examiner noted that the election was of Group I (not Group VIII) and proceeded apparently to examine the non-heterocyclic compounds of Group I and made the requirement Final. Claims 1-4 were rejected also under 35 U.S.C. 112, first paragraph, for lack of written description, and second paragraph, for indefiniteness.

Applicants replied on January 12, 2004, by amending claims 1-4 and replying to the rejections under 35 U.S.C. 112. Applicants also filed this petition requesting withdrawal of the restriction requirement. Applicants first note that the restriction requirement divided the claims into 60 groups, essentially six groups of 10 based on the first 10 groups set forth which are directed to different compounds, each of the other sets of ten groups being dependent thereon, but directed to compositions or methods of treatment of different conditions.

DISCUSSION

Applicants first argue that the indan core having an O linker at position 1 and an S linker at position 2 comprises the invariant core of the claimed compounds and does not present a serious search burden under Markush guidelines because they are closely related and/or sufficiently few in number. As amply demonstrated by the examiner the number of compounds having the above indan core is extremely large, so large as to exceed the search limits of the program utilized. Thus the "few in number" argument is inapposite. That the compounds are closely

related via the indan core is not disputed, however the diversity of substituents appended to the core is so great that the compounds become unrelated and, depending on the substituents whether they be non-cyclic, cyclic or heterocyclic, affects classification and search strategy and techniques. Thus the plethora of compounds claimed are not considered closely related as a whole. Applicants further cite M.P.E.P. 803.02 which gives guidance as to examination of Markush claims. However, this section is directed to instances where an election of species has been made and no election of species has been made here.

Applicants attempt to show that the search would not be burdensome by arguing that within Groups II-VII only three classes are involved and the search for the compounds identified within each Group would overlap with the search for other groups. This is not fully accurate. Even though the compounds of Groups II-VII are classified in closely related subclasses, the search for compounds having a pyridine moiety as opposed to a thienyl moiety would be vastly different and may not even encompass the same subclasses within each classification group. Although superficially the groups may appear to be related and cover similar search areas, closer examination does not bear this out. Combining Groups I, VIII and IX which are based on different values for the S linker appears reasonable since such combination is made with the heterocyclic groups and to not do so would evidence inconsistency in action within the Office.

Applicants' arguments that the X on position 2 of the indan structure which is a sulfur moiety is part of the basic structure, as is the O on position 1, is correct. X varies only in its oxidation state, not in its chemical identity and any structure search based on Formula I should include X at position 2.

Applicants' arguments with respect to the separation of the composition claim, claim 5, from the compound claims is accepted. Since claim 5 only recites the addition of a carrier to the compounds, it should not have been separated from the compound claims.

Applicants further argue that the method of treatment of obesity or weight reduction should not be separated from the compound/composition claims as they depend directly on the compound/composition being used in an effective amount. It is noted that the methods are classified differently from the compounds. Further, the methods of treatment are classified based upon condition being treated and then compound/composition used for treatment. The search for the method of treatment of a condition would not be coextensive with the search for the compound/composition itself. However, to separate the method of treatment from the method of prevention of obesity is improper since they would be classified and searched identically.

In like manner, applicants' arguments that the methods of treating diabetes II should be combined with the compound/composition claims are not sound and are not accepted. However the separation of the method of treatment from the method of prevention of diabetes into separate groups should not have been made. Further, the treatments for obesity or weight reduction and diabetes II are not likely to be the same and therefor these methods are not considered to be so closely related as to be examinable together.

Applicants arguments that related patents having similar disclosures and in which compound and composition and method of use claims have been retained together is noted. However, each

application is judged on its own merits and whether to make a restriction or not rests with the individual examiner. Although general consistency from one examiner to the next is desirable, it is not always achievable. Rejoinder of compound/composition claims with method of use claims remains at the discretion of the examiner in this instance.

In view of the above discussion the restriction requirement is modified as follows:

Group I – claims 1-5, drawn to Formula 1 with non-heterocyclic substituents;
Group II – claims 1-5, drawn to Formula 1 with pyridine substituents;
Group III – claims 1-5, drawn to Formula 1 with imidazolyl substituents;
Group IV – claims 1-5, drawn to Formula 1 with oxazolyl or isoxazolyl substituents;
Group V – claims 1-5, drawn to Formula 1 with thiazolyl substituents;
Group VI – claims 1-5, drawn to Formula 1 with thienyl substituents;
Group VII – claims 1-5, drawn to Formula 1 with furyl substituents;
Group VIII – claims 1-5, drawn to Formula 1 with other heterocyclic groups or combinations of the above heterocyclic groups;
Groups IX-XVI – claims 6-9 and 12-13, drawn to method of treating/preventing weight problems, based on the compounds/compositions of Groups I-VIII;
Groups XVII-XXIV – claims 10-11 and 14, drawn to a method of treating/preventing diabetes based on the compounds/compositions of Groups I-VIII.

Group I (which now encompasses former elected Group VIII) is considered to be the elected Group for purposes of further prosecution. Upon indication of allowability of the compound/composition claims, rejoinder of the corresponding method of use claims will occur, in accordance with the decision in In re Ochiai et al, and they will be examined on their merits.

DECISION

The petition is **GRANTED-IN-PART.**

With respect to the petition to suspend prosecution, no good and sufficient reason has been given therefor. The sole reason given is to allow consideration of the petition of the restriction requirement. As this has occurred no reason for suspension exists.

The petition is **DENIED**.

The application will be forwarded to the examiner for further consideration not inconsistent with this decision

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile to the general Office facsimile number, 703-872-9306..

Bruce M. Kisliuk
Director, Technology Center 1600

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AVENTIS PHARMACEUTICALS INC.
PATENT DEPARTMENT
ROUTE #202-206
P.O. BOX 6800
BRIDGEWATER NJ 08807-0800

In re Application of	:
Gerhard Jaehne et al	:
Serial No.: 10/231,418	: PETITION DECISION
Filed: August 29, 2002	:
Attorney Docket No.: DEAV2001/0048	:

This is in response to the renewed petition under 37 CFR 1.144, filed June 15, 2004, and the supplemental comments, filed June 21, 2004, requesting reconsideration and revision of the petition decision mailed April 15, 2004.

BACKGROUND

The file history is set forth in the previous decision. That decision revised the restriction requirement setting forth 24 groups of invention. A Final Office action was mailed to applicants on April 20, 2004, setting a three month shortened statutory period for reply. No reply has been received as of the date of mailing of this decision. As noted above, a request for reconsideration of the petition decision was filed on June 15, 2004 and a supplemental comments paper on June 21, 2004. The decision revised the restriction requirement, as follows:

Group I – claims 1-5, drawn to Formula 1 with non-heterocyclic substituents;
Group II – claims 1-5, drawn to Formula 1 with pyridine substituents;
Group III – claims 1-5, drawn to Formula 1 with imidazolyl substituents;
Group IV – claims 1-5, drawn to Formula 1 with oxazolyl or isoxazolyl substituents;
Group V – claims 1-5, drawn to Formula 1 with thiazolyl substituents;
Group VI – claims 1-5, drawn to Formula 1 with thienyl substituents;
Group VII – claims 1-5, drawn to Formula 1 with furyl substituents;
Group VIII – claims 1-5, drawn to Formula 1 with other heterocyclic groups or combinations of the above heterocyclic groups;
Groups IX-XVI – claims 6-9 and 12-13, drawn to method of treating/preventing weight problems, based on the compounds/compositions of Groups I-VIII;

Groups XVII-XXIV – claims 10-11 and 14, drawn to a method of treating/preventing diabetes based on the compounds/compositions of Groups I-VIII.

DISCUSSION

Applicants' supplemental comments are treated first. The supplemental comments request reconsideration based on an improper standard for restriction being used. The supplemental comments argue that this application was filed under 35 U.S.C. 371 rather than 35 U.S.C. 111 and is therefore subject to Lack of Unity requirements under 37 CFR 1.475. Such is incorrect. While this application claims priority to a PCT application it was not filed under 35 U.S.C. 371. When entering the US Patent Office based on a PCT International Phase application applicants have the option of entering under 35 U.S.C. 371 and conforming to Rules compatible with PCT practice or entering under 35 U.S.C. 111 and following Rules in effect for regularly filed US applications. Applicants clearly elected to enter the US Office under 35 U.S.C. 111 as evidenced by the transmittal letter which is directed to US Office and clearly states at the top of the first page that this is a "new non-provisional application under 37 CFR 1.53(b)". To enter the National Phase in the US Office, the application transmittal letter would of necessity have to have been directed to the DO/EO of the PCT processing section of the Office.

The main petition presents many of the same arguments presented in the original petition. Applicants' arguments have been carefully reconsidered, but are not persuasive of error on the part of the Office with respect to the revised restriction requirement. Applicants' petition at page 6 appears to intend to set forth the revised restriction requirement, but instead sets forth the original requirement, as summarily presented in the background section of the previous decision. The correct revised requirement is set forth above.

Applicants again rely on the affidavit of Dr. Jaehne, a co-inventor, who states that (1) all compounds have a common indan core structure with an O and X (sulfur) moiety attached; (2) that all the compounds claimed are useful in treating obesity, diabetes and weight reduction in mammals; and (3) that the compounds of the formula all have the same use regardless of the additional substituents attached. None of these statements was disputed in the previous decision. The indan core with the O and X specified was recognized as the common core for purposes of an initial search. However, as indicated by the examiner the results of such search exceeded the search program results parameters. Applicants even argue that such core is commonly found in organic textbooks and is well recognized. Thus applicants' argument of search burden on the Office falls in view of the examiner's statement of results and applicants recognition of the large number of existent indan compounds known. Applicants' argument also fails in view of the proposed restriction requirement which places compounds with S, SO and SO_2 in different groups which is contrary to what was argued in the first petition.

With regard specifically to points (2) and (3) above, while it is stated that all of the compounds have the same use irrespective of the substituents represented by R_1-R_7 and Y, the substituents vary so widely that it cannot be said that the compounds are closely related. For instance, compounds in which none of the substituents are heterocyclic would not be suggested by or equivalent to compounds in which a thienyl substituent or a pyrridyl substituent or a combination of two or more of these or other heterocyclic substituents are present. Absent a statement by

applicants that all compounds claimed are equivalent, restriction for examination purposes in order to permit a reasonable search burden on the Office is appropriate. Note that no election of species was made and applicants' arguments with respect thereto are not accepted. Note also that the cases cited by applicants, *In re Weber, In re Haas, etc.*, all stand for the proposition that the compounds are closely related in both structure and activity. Here the structures are not closely related due to the multiplicity of substituents on the common core. The substituent radicals include acids, esters, amides, amines, nitrile, halogen, hydroxyl, alkyl, alkenyl, alkynyl, and others (over 50 in all), all of which may be substituted on the alkyl, alkenyl, alkynyl, phenyl, naphthyl or heterocycle chain or ring of each of the R or Y symbols by the same groups. It cannot be reasonably concluded in view of the variety of substituents that they do not affect the activity of the indan core and/or its properties. As argued by applicants, *In re Haas* dealt with a **narrow** Markush group (emphasis added), not a Markush group encompassing millions of compounds, as here.

Applicants argue disparate treatment citing other applications having similar recitations of compound groups which have been allowed without restriction. However, the prosecution history of these applications has not been referenced and there may well have been an initial restriction requirement made between compounds or between compounds and methods which was later withdrawn in view of the allowance of the compounds in view of *In re Ochiai*. Further, each application is examined on its own merits, not the merits of a companion or related application. As noted in the previous decision should the elected compounds be found allowable method claims having all of the limitations of the allowed compound claims would be rejoined and examined on their merits. However, this is not normally done until allowability of the compounds claims is indicated.

Applicants' proposed grouping of the claims is noted. The separation of the compounds claims based on whether X is S, SO or SO_2 appears to be directly opposed to the position which applicants argued in the first petition. In any event the restriction requirement set forth in the previous petition decision is found to be proper and is not modified.

DECISION

The renewed petition is **DENIED.**

The application will be retained pending applicants reply to the outstanding Office action.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile to the general Office facsimile number, 703-872-9306..

Bruce M. Kisliuk
Director, Technology Center 1600

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FEB 7 2005

AVENTIS PHARMACEUTICALS INC.
PATENT DEPARTMENT
ROUTE #202-206
P.O. BOX 6800
BRIDGEWATER NJ 08807-0800

In re Application of	:
Gerhard Jaehne et al	:
Serial No.: 10/231,418	: PETITION DECISION
Filed: August 29, 2002	:
Attorney Docket No.: DEAV2001/0048	:

This is in response to the second renewed petition under 37 CFR 1.144, filed October 25, 2004, requesting reconsideration and revision of the petition decision mailed August 23, 2004.

BACKGROUND

The file history is set forth in the two previous decisions. That decision revised the restriction requirement setting forth 24 groups of invention. A Final Office action was mailed to applicants on April 20, 2004, setting a three month shortened statutory period for reply. Applicants have, since the last petition decision, filed a reply to the Final Office action. It is noted that the reply has been considered and the application has now been allowed by the present examiner The first petition decision revised the restriction requirement, as follows:

Group I – claims 1-5, drawn to Formula 1 with non-heterocyclic substituents;
Group II – claims 1-5, drawn to Formula 1 with pyridine substituents;
Group III – claims 1-5, drawn to Formula 1 with imidazolyl substituents;
Group IV – claims 1-5, drawn to Formula 1 with oxazolyl or isoxazolyl substituents;
Group V – claims 1-5, drawn to Formula 1 with thiazolyl substituents;
Group VI – claims 1-5, drawn to Formula 1 with thienyl substituents;
Group VII – claims 1-5, drawn to Formula 1 with furyl substituents;
Group VIII – claims 1-5, drawn to Formula 1 with other heterocyclic groups or combinations of the above heterocyclic groups;
Groups IX-XVI – claims 6-9 and 12-13, drawn to method of treating/preventing weight problems, based on the compounds/compositions of Groups I-VIII;
Groups XVII-XXIV – claims 10-11 and 14, drawn to a method of treating/preventing diabetes based on the compounds/compositions of Groups I-VIII.

DISCUSSION

Applicants' renewed petition presents many of the same arguments as before. These arguments have been carefully considered previously and have been reconsidered, but are not persuasive of error on the examiner's part.

Applicants argue again that the restriction requirements are, in effect, rejections under 35 U.S.C. 121 which is prohibited. A review of the Office actions shows no rejections under 35 U.S.C. 121 have been made. The ability of the Office to make a proper restriction requirement does not mean a rejection has been made. When proper, a restriction requirement separates multiple claimed inventions into separate groups as has been done here. Where multiple inventions are claimed, whether within the same claim or in separate independent or dependent claims, the Office may require restriction to one of the claimed inventions. As iterated in the court cases cited by applicants and as defined in the M.P.E.P. where examining procedure guidance is given, the standard for maintaining chemical compounds together is that they have the same utility and share a common structure essential to that utility. As has been explained previously common utility appears to be present here, but a common structure **essential to that utility** does not appear to be present. Here the indan core is the common structure, but it, in itself, does not provide the utility claimed, but the various groups defined by $Y\text{-}R^5$ attached to the indan core through the X group. Thus applicants' arguments in this arena fail. (Note that in *In re Weber* the utility was provided by the core and the various side chains or substituents attached to the core provided minor modifications of that utility – color dyeing.)

The argument that the restriction requirement breaks down a proper Markush Group is valid only under the conditions noted above – common shared structure and utility provided by that structure.

Applicants' arguments that the actions of the Office are not in accord with decisions of the CCPA (and its successor CAFC) are not agreed to for the reasons stated above. Further, the guidance provided by M.P.E.P. 803.02 is applicable where an election of species has been required in order to provide a starting place for examination to begin where a large number of compounds or species are properly claimed in a proper Markush group.

Applicants' arguments as to search burden are noted, but not on point. The Office determines whether a search burden is excessive based on the compound(s) to be searched, or in this case the core structure to be searched. Applicants have provided search results based on searching a particular structure. The results provided are markedly different from the search conducted by the examiner. It appears that this is because applicants have limited the search to the indan core with specific variables attached via the O and S side chains. However, it is the examiner who is charged with conducting an adequate search of the **claimed** subject matter. Thus the examiner's search was more extensive because of the breadth of the claims than that conducted by applicants and consequently yielded more results.

Applicants' arguments with respect to other applications having similar subject matter being examined differently or that other examiners have not made a restriction requirement in applications having claims of similar breadth is not persuasive. Restriction is a tool an examiner

may use to limit the number of inventions claimed in an application, but it is not required to be used. Obviously different examiners based on experience and other factors will or will not make a restriction requirement. Applicants' recitation of the fees required in filing multiple applications is noted, but inapposite to the determination of whether restriction is proper or not.

It is noted that prior to consideration of this petition decision a new examiner was assigned the application for further consideration and has now rejoined all claims and allowed the application. In view thereof the petition is moot.

DECISION

The renewed petition is **DISMISSED** in view of the mailing of the Notice of Allowability.

As noted, a Notice of Allowance and Issue Fee Due has recently been mailed to applicants and applicants should take action as noted therein.

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 to the general Office facsimile number, 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/231,428	08/27/2002	Thomas K. DeLay	MFS-31727-1	5166

30698 7590 08/19/2005

NASA/MARSHALL SPACE FLIGHT CENTER
LSO1/OFFICE OF CHIEF COUNSEL
MSFC, AL 35812

EXAMINER
CASTELLANO, STEPHEN J

ART UNIT	PAPER NUMBER
3727	

DATE MAILED: 08/19/2005

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

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U.S. Patent and Trademark Office
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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT	PAPER
	81705

DATE MAILED:

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

Commissioner for Patents

Stephen J. Castellano
Primary Examiner
Art Unit: 3727

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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In re DELAY ET AL.	:	
Appl No.: 10/231,428	:	**DECISION GRANTING**
Filed: August 27, 2002	:	**PETITION**
For: Pressure Vessel with Impact and ...	:	*37 CFR 1.48*
	:	
	:	
	:	
	:	

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

The petition is granted.

The patented file is being forwarded to Technology Center 3700 for correction in the PALM database.

Stephen J. Castellano
Primary Examiner
Art Unit 3727
Technology Center 3700

NASA/MARSHALL SPACE FLIGHT CENTER
LSO1/OFFICE OF CHIEF COUNSEL
MSFC, AL 35812

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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NOV 16 2004

OFFICE OF PETITIONS

Applicant: Marsh et al.
Appl. No.: 10/231,434
Filing Date: August 28, 2002
U.S. Patent No.: 6,783,657
Issue Date: August 31, 2004
Title: SYSTEMS AND METHODS FOR THE ELECTROLYTIC REMOVAL OF METALS FROM SUBSTRATES
Attorney Docket No.: 150.01120101
Pub. No.: US 2004/0040853 A1
Pub. Date: March 4, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on April 16, 2004.

The request is DISMISSED as moot.

The instant request identifies an error in the published patent application publication. Since the application has already issued as U.S. Patent No. 6,783,657 on August 4, 2004, the request is deemed moot.

Inquiries relating to this matter may be directed to the undersigned 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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Lawrence S. Perry
Fitzpatrick, Cella, Harper & Scinto
30 Rockefeller Plaza
New York NY 10112

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JAN 03 2008

OFFICE OF PETITIONS

In re Application of
Shitara et al.
Application No. 10/231,452
Filed: August 30, 2002
Attorney Docket No. 249-273

DECISION ON PETITION

This is a decision on the petition filed October 30, 2007, requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimer filed April 5, 2007 be withdrawn The $400.00 petition fee has been received.

The petition is granted.

Petitioners assert that, as the claims for which the aforementioned terminal disclaimer was originally proffered have now been amended [cancelled] to remove the basis for the previous obviousness-type double patenting rejection, there is no further need for the disclaimer to remain recorded against this application. The undersigned has consulted with the examiner in charge of this application, and has found that the examiner concurs with petitioners' assertion. Accordingly, the terminal disclaimer is withdrawn. USPTO records for the above-identified application have been changed consistent with this decision.

This application is being referred to Technology Center Art Unit 1647 for further processing in the normal course of business.

Telephone inquiries related to this decision should be addressed to the undersigned at (571) – 272-3215.

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

MAILED

MAR 25 2009

OFFICE OF PETITIONS

In re Application of	:	
Jacqueline L. Castro	:	
Application No. 10/231,453	:	DECISION ON PETITION
Filed: August 30, 2002	:	
Attorney Docket No. 020966	:	

This is a decision on the petition, filed December 1, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the final Office action of August 22, 2007, which set a three (3) month shortened statutory period for reply. A reply was due on or before November 22, 2007.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on February 20, 2008 of, *inter alia,* a request for a three (3) month extension of time and a Request for Continued Examination (RCE). A copy of the previously submitted reply accompanies the petition.

The extension of time and RCE are acknowledged as having been received in the USPTO on February 20, 2008 are not of record in the application file and have not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the extension of time and RCE were timely received in the USPTO but lost after receipt thereof.

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

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on February 20, 2008.

This application is being referred to Technology Center AU 3627 for appropriate action in the normal course of business on the reply received with petition.

Carl Friedman
Petitions Examiner
Office of Petitions

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1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

MAILED

MAR 25 2009

OFFICE OF PETITIONS

In re Application of	:	
Jacqueline L. Castro	:	
Application No. 10/231,453	:	DECISION ON PETITION
Filed: August 30, 2002	:	
Attorney Docket No. 020966	:	

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

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on February 20, 2008.

This application is being referred to Technology Center AU 3627 for appropriate action in the normal course of business on the reply received with petition.

Carl Friedman
Petitions Examiner
Office of Petitions

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Paper No. 7

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

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MAY 1 9 2003

OFFICE OF PETITIONS

In re Application of
Robert C. Angell, Ronald D. Deangelis,
Edward J. Hole, Richard L. Martin, John A.
Santini, and Shawn Terry
Application No. 10/231,457
Filed: August 30, 2002
Attorney Docket No. 08339-0077-00000
Title: LINKING COMPONENT, SYSTEM,
AND METHOD FOR PROVIDING
ADDITIONAL SERVICES AT A
CONVENTIONAL GAMING MACHINE

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

BEST AVAILABLE COPY

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed February 3, 2003.

The above-identified application was filed on August 30, 2002, identifying Robert C. Angell, Ronald D. Deangelis, Edward J. Hole, Richard L. Martin, John A. Santini, and Shawn Terry as joint inventors. On October 1, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or

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.

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.

In reply, applicant filed the basic filing fee, the fee for additional claims, the instant petition (and fee), the surcharge associated with the late filing of an oath or declaration, a two-month extension of time to make timely this response, and a declaration executed be each joint inventor save inventor Terry. On May 13, 2003, a supplement to the petition was faxed to the undersigned.

Accompanying the petitions was a statement from the attorney of record and copies of letters from each of the non-signing inventors.

Petitioner has met requirements (1) – (2) and (4) above.

Regarding the third requirement, petitioner has failed to include a statement of the last known address of the non-signing joint inventor[2].

Regarding the fifth requirement, petitioner has not submitted a declaration which complies with 37 CFR §1.63. The declaration submitted with the instant petition contains non-initialed and non-dated changes by joint inventor Santini[3].

For these reasons, the petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.47(a)."

The reply to this letter may be submitted by mail[4], hand-delivery[5], or facsimile[6].

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

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

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

---

2 See MPEP 409.03(e).
3 MPEP 605.04(a).
4 Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1460, Alexandria, VA 22313-1460. **Note that this is a new address, as the USPTO has changed addresses as of May 1, 2003.**
5 Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.
6 (703) 308-6916, Attn: Office of Petitions.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

Finnegan, Henderson, Farabow, Garrett & Dunner LLP
1300 I Street NW
Washington DC 20005-3315

COPY MAILED

JUN 1 8 2003

OFFICE OF PETITIONS

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In re Application of Robert C. Angell, Ronald D. Deangelis, Edward J. Hole, Richard L. Martin, John A. Saintini, and Shawn Terry Application No. 10/231,457 Filed: August 30, 2002 Attorney Docket No. 08339-0077-00000 Title: LINKING COMPONENT, SYSTEM, AND METHOD FOR PROVIDING ADDITIONAL SERVICES AT A CONVENTIONAL GAMING MACHINE	: : : : : : : : : : : :	DECISION ON RENEWED PETITION

This is in response to the renewed petition[1] under 37 C.F.R. §1.47(a)[2], filed June 10, 2003.

With the Renewed petition, the petitioner has corrected a previously mentioned deficiency, and pointed out a mistake made by the Office.

---

1 The original petition, filed on February 3, 2003, was dismissed via a decision mailed on May 19, 2003.

2 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(6) a declaration which complies with 37 CFR §1.63.

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 3700 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

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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.
10/231,458	20-Jun-03	CHRISTOPHER M. BURT, ET AL.	P67274USO

Title: MOTAR BUGGY

Art Unit	Paper Number

Correspondence Address:
HARVEY B. JACOBSON
JACOBSON HOLMAN
400 SEVENTH STREET, N.W.
WASHINGTON, D.C. 20004

PATENT & TRADEMARK OFFICE
MAILED
NOV 21 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

Harvey B. Jacobson, Jr.
JACOBSON HOLMAN
400 Seventh Street, N.W.
Washington, D.C. 20004-2201

In re:	Burt et al	:	DECISION ON REQUEST
Serial No.:	10/231.458	:	UNDER 37 CFR 5.25
Filing date:	August 30, 2002		
Docket No:	P67274USO		

Title: MORTAR BUGGY

This is a decision on the petition filed on June 20, 2003 for retroactive foreign filing license.

37 CFR 5.25(a) requires the following:

1. A listing of each of the foreign countries in which the unlicensed patent application material was filed,
2. The dates on which the material was filed in each country,
3. A verified statement (oath or declaration) containing:
   i. An averment that the subject matter in question was not under a secrecy order at the time it was filed abroad, and that it is not currently under a secrecy order,
   ii. A showing that the license has been diligently sought after discovery of the proscribed foreign filing, and
   iii. An explanation of why the material was filed abroad through error and without deceptive intent without the required license under § 5.11 first having been obtained, and
4. The required fee (§ 1.17(h)).

The petition is **Denied** at this time in that the petition is defective since the requirements set forth in 37 C.F.R. 5.25(a)(3)(ii) – (a)(3)(iii) have not been met.

Petitioner avers that at the time of the proscribed filing in Canada on September 9, 2002, He (petitioner) "did not appreciate the need for a foreign filing license directed thereto inasmuch as the technology covered by such invention, i.e, mortar buggy, had no application in connection with any subject matter which would be considered to involve national security".

The petition is denied since the petitioner is incorrectly associating the requirement for requesting a foreign filing license with petitioners assessment of what would involve national security. This is not indicia of what 37 CFR 5.25 requires, i.e., proscribed filing through error and without deceptive intent. There does not appear to be an error in the filing since petitioner was aware of the need to file a foreign filing license request but assumed that one was not required

based upon the subject matter.

Finally, the circumstances surrounding discovery of the proscribed filing are not adequately set forth for there to be any assessment on due diligence.

Accordingly, the provisions of 37 CFR 5.25 not having been fully met, the petition is denied, and in the absence of any response within **60 days** of the mailing date of this letter, such denial will be made final and the final action under 35 U.S.C. 185 will be taken. Extensions of time may be had under 37 C.F.R. 1.136(a).

Ian J. Lobo
Patent Examiner
(703) 306-4161

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/231,460	08/30/2002	Atsuhiko Fukushima	Q71734	4550

7590 06/17/2009
SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington, DC 20037-3213

EXAMINER
MARC COLEMAN, MARTHE Y

ART UNIT	PAPER NUMBER
3661	

MAIL DATE	DELIVERY MODE
06/17/2009	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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090615

DATE : June 16, 2009

TO SPE OF : ART UNIT 3661

SUBJECT : Request for Certificate of Correction on Patent No.: 6,947,837

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

SPE: /Thomas G. Black/ **Art Unit** 3661

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

BLAKE CASSELS & GRAYDON
BOX 25, COMMERCE COURT WEST
199 BAY STREET, SUITE 2800
TORONTO, ON M5L 1A9
CANADA

AIRMAIL

COPY MAILED
JUN 2 2 2004
OFFICE OF PETITIONS

In re Application of :
Albert Chan :
Application No. 10/231,488 : ON PETITION
Filed: August 30, 2002 :
Attorney Docket No. 35795/410 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 9, 2004, to revive the above-identified application.

The petition is **GRANTED**.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/08/09

TO SPE OF : ART UNIT 2114

SUBJECT : Request for Certificate of Correction for Appl. No.: 10231529 Patent No.: 6957367

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

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

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Formatted: Indent: Left: 88 pt

Comments: _____

SCOTT BADERMAN
~~SUPERVISORY PATENT EXAMINER~~ 2114

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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. 6

SMITH-HILL AND BEDELL
12670 N W BARNES ROAD
SUITE 104
PORTLAND OR 97229

COPY MAILED

FEB 0 3 2004

OFFICE OF PETITIONS

In re Application of
Jui-Ming Chang, Chin-Chi Teng, and Wei-Jin Dai
Application No. 10/231,532
Filed: August 29, 2002
Attorney Docket No. SILI 2372 (01-054)
Title: CLOCK TREE SYNTHESIS FOR MIXED DOMAIN CLOCKS

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

This is a decision on the petition filed on June 6, 2003, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

On January 31, 2003, a Notice of Rescission of Nonpublication Request was filed with the Office. Unfortunately, notification of the filing of the international application did not accompany this filing.

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an international application on December 13, 2002. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of an application under a multilateral international agreement, that requires publication of applications 18 months after filing.

The petition is **GRANTED-IN-PART**.

The portions of the petition which request that the Notice of Rescission of Nonpublication Request be treated as adequate notification of a multinational filing is **DISMISSED**, for the reasons set forth below.

In making this request, the petitioner advances the following seven arguments:

1. Prior to April 11, 2003, "the Office viewed the official form then in effect for rescinding a nonpublication request (Form PTO-SB/38)...to be an adequate notification of foreign filing..."
2. "Form PTO-SB/38...makes no reference...to 35 U.S.C. 122(b)(2)(B)(iii) or 37 C.F.R. 1.213(c)".
3. "The signature line on form PTO-SB/36"...."is above the note that refers to 35 U.S.C 122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c), and therefore, the note, as such, is not signed".
4. Petitioner's "confusion over the requirements of 35 U.S.C. 122(b)(2)(B) and 37 C.F.R. §1.213 should be excused", and the notice of rescission should be accepted as a notification under 35 U.S.C. §122(b)(2)(B)(iii), because "it was reasonable to have viewed the notice of rescission as canceling or abrogating the previous nonpublication request."
5. A Notice of either a foreign filing or a multinational application "serves no purpose that is not served by the notice of rescission."
6. "Confusion on the part of Office personnel can be inferred from changed that were made to form PTO/SB/38", and "the Office was uncertain whether the unsigned note on Form PTO/SB/38...was an adequate notification under 35 U.S.C. 122(b)(2)(B)(iii)".
7. The international application, was filed with the United States Patent and Trademark Office as the receiving Office, referenced the instant U.S. application by application number and filing date. Therefore, the "act of filing the International application therefore notified the Director of the filing of the International application not later than 45 days after filing of the International application."

The first argument above this argument is both incorrect and irrelevant. It is incorrect in that a Rescinding of the Nonpublication Request is not, and never was considered to be a notice of a foreign or multinational filing. It is irrelevant due to the fact that the petitioner's Notice of Rescission on Nonpublication Request was not submitted via the official PTO form, but rather via a type-written letter.

Regarding arguments two through five above, the abandonment did not stem from the PTO's failure to reference a particular law or regulation on a form, or the placement of the relevant regulation and law; the application went abandoned as a direct result of petitioner's failure to be aware of and/or fully and correctly comprehend the relevant laws and regulations. As a registered member of the patent bar, petitioner is expected to know the relevant laws and regulations pertaining to his practice and under which this Office operates, and he is charged with the responsibility of keeping himself up to date with any changes in these matters.

Regarding the sixth argument above, petitioner's inference is incorrect. Forms are changed and Notices are published in the Official Gazette merely as a courtesy for applicants and practitioners.

Regarding the seventh argument above, in light of 37 C.F.R. §§1.4(b) - (c), it was not reasonable for petitioner to have expected the papers in the PCT file to have been matched with those of the instant application, and therefore have proper notice provided for. As is clearly set forth in the former, "a separate copy of every paper to be filed in a patent ...application ... must be furnished for each file to which the paper pertains."

As such, the request to have the Rescission treated as a notice is **DISMISSED**.

Concerning the petition under 37 C.F.R. §1.137(f), the petition is **GRANTED**.

Petitioner has submitted the notification of an international filing, paid the petition fee (which has been charged to petitioner's Deposit Account, as authorized in the petition), and has made the proper statement of unintentional delay.

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

After this decision is mailed, the application will be forwarded to Technology Center 2800 for restarting of the shortened statutory period for replying to the non-final rejection of March 5, 2003.

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

Paul Shanoski

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

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MAIL

Paper No. 15

APR 1 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Williams, Morgan & Amerson
10333 Richmond Dr., Suite 1100
Houston, Texas 77042

In re Application of: Barto et al.
Application No. 10/231,561
Attorney Docket No. 2000.081400/SFD
Filed: August 30, 2002
For: METHOD AND APPARATUS FOR REDUCING SCHEDULING CONFLICTS FOR A RESOURCE

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181

This is a decision on the petition filed December 6, 2004 requesting the Withdrawal of the Holding of Abandonment under 37 CFR §1.181. This application was abandoned for failure to respond to the Notice of Allowance mailed February 13, 2004 (Paper No. 9). A Notice of Abandonment is being mailed herewith.

Applicable Prosecution History

Aug 30, 2002	Application filed with declaration establishing address as 7676 Hillmont, Suite 250, Houston, Texas 77040 (no power of attorney granted)
Aug 30, 2002	Revocation and appointment of power of attorney filed
Oct 28, 2002	Establishment of Customer No. 23720 for application, change in power of attorney to 12 registration numbers; address remains Hillmont
Oct 27, 2003	First action on the merits mailed to Hillmont address
Jan 26, 2004	Applicants file response to Office action
Feb 13, 2004	Notice of Allowance mailed after interview held on same day with Mr. Diring to Hillmont address
Feb 18, 2004	Applicants submit IDS
May 13, 2004	Issue fee due date
May 27, 2004	Applicants submit additional IDS
Aug 31, 2004	Change of address for Customer No. 23720
Dec 6, 2004	Petition submitted

Evidence in Support of Petition

In support of the petition, petitioners have submitted a statement by the practitioner that the Notice of Allowance was not received; a statement by the firm's docketing clerk regarding the docketing records; and a copy of the firm's docketing records is attached and referenced in both the practitioner's statement and in the docketing clerk's statement.

Decision

As the practitioner properly stated, the guidelines on how to prove non-receipt is set forth in MPEP §711.03(c). The showing required to establish non-receipt of an Office action includes the following:

1) a statement from the practitioner that the Office action was not received,
2) a statement from the practitioner that the file jacket and docket records were searched,
*3) a copy of the docket record **at the address of record**, and*
4) a reference to the docket record in the practitioner's statement.

The petition nominally complies with the requirements set forth above. However, the evidence submitted fails because the overall record of when and how the practitioner's address was changed is not stated. Since it is not clear whether the supporting evidence provided is for the Hillmont or Richmond Drive location, the practitioners have not complied with the requirement that the docket record be for the address of record (in this case, the Hillmont address).

A review of the official application file reveals that the Notice of Allowance was returned as "not deliverable as addrsd [sic]". In addition, the examiner spoke with Mr. Pyle's assistant on March 3, 2005 (interview summary to be mailed under separate cover) and information was conveyed about dates of changing the correspondence address that need to be cleared up. Finally, the overall record found in the application jacket and supplemented by the practitioner's statement raise questions that need to be answered before a decision favorable to applicants can be made.

Practitioners have a duty to promptly notify the Office of a change in correspondence address (see MPEP § 601.03). On October 27, 2003, a non-final Office action was mailed to the Hillmont address that *was* received because applicants filed a response on January 26, 2004. Yet by the mailing date of the Notice of Allowance on February 13, 2004, the use of Hillmont address proved to be undeliverable. Should the practitioners wish reconsideration of this decision, they should clarify when they relocated to the Richmond Drive address.

It is also not clear as to the dates that changes of address were filed with the Office. The practitioner should provide evidence of dates of filing along with proof of what addresses were being supplied to the Office in each respective filing since the documents found the file wrapper lack all the pertinent information.

It is noted the practitioners held a discussion with the examiner on February 13, 2004, the same day the Notice of Allowance was mailed. The record of that interview is silent as to whether the practitioner was made aware that a Notice of Allowance would be forthcoming. Mr. Pyle has stated that this petition was timely filed "within the two-month period" required under 37 CFR § 1.181(f). It is assumed from the other statements found in the petition, that the practitioner considers the date of awareness of a potential abandonment due to non-receipt of correspondence is October 2, 2004 when the status of the application was checked by an unnamed person. Because the petition was filed December 6, 2004, more than 9 months after the interview of

February 13, 2004 and more than 6 months after the application was effectively abandoned for failure to pay the issue fee; the practitioner should provide any recorded interview summary for the February 13, 2004 discussion.

As to the matter of the sufficiency of the provided docket record, the practitioner is requested to explain why the record fails to show changes of address or the interview held on February 13, 2004. Essentially, the records to be provided to prove non-receipt should be complete as to the prosecution in the application.

Finally, Mr. Pyle's remarks (page 2 of the petition) suggests that the practitioner had no record of any interaction with the Office between November 11, 2002 and the October 2, 2004 status inquiry. This statement appears to omit mention of any filings (a response and an Information Disclosure Statement), or of a telephone interview with the examiner. Again, the practitioner should clarify these remarks if a request for reconsideration of this decision is filed.

While the Office has evidence the Notice of Allowance was not delivered. The practitioner must provide more evidence that such non-delivery did not occur because of a failure to take the proper steps to timely file a change of address with the USPTO.

The evidence submitted to date has not overcome the presumption of proper mailing. The petition is **DISMISSED**.

Until proven otherwise, the Information Disclosure Statements filed February 18, 2004 and May 27, 2004 were filed after a properly mailed Notice of Allowance. Therefore, they must be fully compliant with the guidelines set forth in MPEP § 609 B(3) or the examiner will not consider them.

If the petitioners desire further review of this decision, they should file a Request for Reconsideration within two (2) months of the mailing date of this decision. Otherwise, the petitioners may wish to consider filing a petition to revive under 37 CFR § 1.137(b). Telephone inquiries should be directed to the undersigned at 571-272-3613.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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DEC 2 7 2005

Technology Center 2100

Paper No. 18

Williams, Morgan & Amerson
10333 Richmond Dr., Suite 1100
Houston, Texas 77042

In re Application of: Barto et al.	)	
Application No. 10/231,561	)	**DECISION ON PETITION TO**
Attorney Docket No. 2000.081400/TT4746	)	**WITHDRAW HOLDING OF**
Filed: August 30, 2002	)	**ABANDONMENT UNDER 37 CFR**
For: METHOD AND APPARATUS FOR	)	**§1.181**
REDUCING SCHEDULING CONFLICTS	)	
FOR A RESOURCE	)	

This is a decision on the request for reconsideration filed June 17, 2005 requesting the Withdrawal of the Holding of Abandonment under 37 CFR §1.181. The original petition filed December 6, 2004 was dismissed April 14, 2005. This application was abandoned by operation of law (35 U.S.C. 151) for failure to timely pay the issue fee set forth in the Notice of Allowance mailed February 13, 2004 (Paper No. 9).

Evidence in Support of Request for Reconsideration

The original petition has been supplemented with records showing, in part, a change of address request dated November 11, 2002, a supplemental declaration by Mr. Jeffrey Pyle which provides background on the chronology of events surrounding the practitioners' move to a new address in November 2002, evidence of the Office having made a change to the customer number record for #23720 mailed December 17, 2002 and a printout of application numbers associated with customer number 23720 with a run date of October 28, 2002. The practitioner, in the earlier petition, has already provided a statement that the Notice of Allowance was not received, a statement by the firm's docketing clerk regarding the docketing records, and a copy of the firm's docketing records that was referenced in both the practitioner's statement and in the docketing clerk's statement.

Decision

The earlier petition was dismissed because the record was not clear as to when and how the practitioner's address was changed. It was not clear whether the supporting evidence provided was for the Hillmont or Richmond Drive location. While a review of the Office record revealed that the Notice of Allowance was returned as "not deliverable as addrsd [sic]," the overall record found in the application jacket and supplemented by the practitioner's statement had raised questions that needed to be answered before a decision favorable to petitioners could be made. The evidence which accompanies the June 17, 2005 Request for Reconsideration provides proof that applicants and the practitioner had taken the necessary steps during the prosecution to execute a timely change of address in accordance with Office procedures.

Addressing Remarks on Arbitrary and Capricious Decision

The guidelines on how applicants are to prove non-receipt are set forth in MPEP §711.03(c). In this case, the petitioners have provided evidence in response to the original petition decision. However, the practitioner has also included arguments that the original decision was "an arbitrary and capricious act" because the original petition was dismissed using a standard that was not published and that the standards used were only set forth at the time of the decision. It appears the practitioner is arguing that requiring evidence "at the address of record" and of requiring a showing of when and how the practitioner made the change(s) of address is a violation of the Office's administrative procedures.

The purpose of MPEP § 711.03(c) I. A. is to provide applicants with an avenue of relief when correspondence is not received through no fault of the applicant or applicant's agents. Part of the required showing by the practitioner is that of "[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." In those cases where the practitioner has moved sometime during the interval after establishment of a correspondence address, it may not be clear whether the showing to establish nonreceipt is for the official address of record at the time of the lost communication or for the current practitioner's address, which may not be the official address of record.

The practitioner has a responsibility to avoid prejudice to the rights of a patent applicant under 37 CFR Part 10 (see 1086 OG 457). Part of that responsibility is to promptly notify the Office of changes of address or telephone numbers (see, for example, language in 37 CFR § 11.11 and MPEP § 601.03). In addition, for a change of correspondence address to be proper, it "may not be signed by an attorney or agent not of record" (see MPEP §§ 406 and 601.03).

MPEP § 711.03(c) I. A. states, "***If adequately supported***, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action." (Emphasis added.) Therefore, the deciding official must weigh if the evidence provided adequately supports the petition's grant. In this application, the Office was aware that the practitioner had moved, but the official application did not contain a complete record as to how, when, or by whom the change of address had occurred. It is sometimes necessary for the deciding official to inquire further to determine if the problems with the mailing occurred due to errors within the practitioner's control.

While the MPEP outlines procedures for handling returned Office actions (see MPEP § 707.13), in this case, the Office action was mailed to the correct correspondence address *as known at the time* – which was the Hillmont address. There was no further action required although the Office could write a letter to the inventor or assignee informing him/her of the returned action, but that is not required. Because of the latest evidence submitted by the practitioner, it has now been established that the correspondence address in the Office's database as of February 2004 was incorrect. That would not have been evident except for these submissions.

For these reasons, the original dismissal was not arbitrary and capricious, but was necessary to ensure "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." (See MPEP 711.03(c).)

Procedural Matters

In the Request for Reconsideration, the practitioner provides copies of previously submitted correspondence to demonstrate consistency in the use of the Richmond address. The evidence is noted, but the practitioner is advised that a change of address should be made "in a manner calling attention to the fact that a change of address is being made." (See MPEP 601.03.) The Office receives numerous correspondence from practitioners not located at the official correspondence address, so that addresses found in the representative's signature block is not relevant to establishing whether the Office properly mailed a piece of correspondence (addressing the matter raised in footnote 1, page 6 of Request for Reconsideration).

It is also noted that the Office action mailed October 27, 2003 was addressed to the Hillmont address even though this was almost one year after the practitioner's change to the Richmond address. In the future, if the practitioner notes problems with an Office correspondence address, practitioner is advised to either resubmit a copy of the previous change of address paperwork or to submit a new copy so the Office can promptly correct such oversights.

In regards to future submissions of exhibits with applicant's documents, the practitioner is advised that independent labeling of these exhibits will assist Office personnel in locating and reviewing these references once the papers have been scanned into the image file. With applicants' latest filing, Exhibits A-K were not labeled on the face of each document and if other tabbing or labels had been used in the paper copy, they were lost once the paper was scanned (and subsequently matched to the paper application). Applicants can expect this application to become an image file in the near future. While there is no known rule addressing this matter at this time, this information is being brought to applicants' attention in the event other such papers are filed in the future.

The evidence submitted to date has overcome the presumption of proper mailing. The petition is **GRANTED**. The holding of abandonment is withdrawn.

The application will be forwarded to the Technology Center support staff for withdrawal of the holding of abandonment. The Information Disclosure Statements filed February 18, 2004 and May 27, 2004 were filed after a first action on the merits. Therefore, they must be fully compliant with 37 CFR § 1.97(e) and accompanied by the fee set forth in 37 CFR 1.17(p) or they will not be considered.

Thereafter, the application will be forwarded to the examiner for consideration of any papers filed since February 2004. A Notice of Allowability will be remailed, if appropriate.

Josie A. Ballato

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(571) 272-3567

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK NY 10016

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JUN 16 2006

OFFICE OF PETITIONS

In re Patent No. 6,921,396 :
Issue Date: July 26, 2005 :
Application No. 10/231,577 : DECISION GRANTING PETITION
Filed: August 30, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **4798-17(23.5)** :

This is a decision on the petition, filed March 28, 2006, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen-months after filing. *See* 37 CFR 1.137(f).

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on August 28, 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. Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the USPTO of the filing of a counterpart application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen-month publication country must be accompanied by:

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

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

This application matured into Patent No. 6,921,396 on July 26, 2005, therefore, there is no further action required.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper No. 4

John K. Abokhair
ROBERTS ABOKHAIR & MARDULA, L.L.C.
11800 Sunrise Valley Drive, Suite 1000
Reston, VA 20191-5302

MAILED
FEB 23 2004
Technology Center 2100

In re Application of:)
John Hamilton)
Application No. 10/231,608)
Filed: August 30, 2002) **DECISION ON REQUEST FOR**
For: A NON-ALGEBRAIC) **WITHDRAWAL AS ATTORNEY**
CRYPTORGRAPHIC)
ARCHTICTURE)

This is a decision on the Request To Withdraw from Representation filed February 12, 2004.

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

The request is signed by John K. Abokhair alone and does not contain a clear indication that Mr. Abokhair is authorized to sign on behalf of the other attorneys of record and is signing on behalf of the other attorneys of record. Furthermore, there is no indication that Applicant has been notified of the request for withdrawal.

Accordingly, the request is **DENIED**.

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

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

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PATENT & LEGAL SERVICES
111 LORD DRIVE
CARY NC 27512

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AUG 0 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Williams et al.	:	
Application No. 10/231,621	:	DECISION ON PETITION
Filed: 30 August, 2002	:	
Atty Docket No. IR-2933 (CRD)	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed 5 July, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the amendment filed on 27 September, 2004.

The petition is **GRANTED**.

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

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

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

prior-filed provisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-fiiled provisional application as required by 37 CFR 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/316,417, which was filed on 31 August, 2001, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to 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 1762 for appropriate action on the amendment submitted 27 September, 2004, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/316,417.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 12

Glass & Associates
P.O. Box 1220
Los Gatos, CA 95031-1220

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SEP 24 2003

OFFICE OF PETITIONS

In re Application of	:	
Anne Katz	:	
Application No. 10/231,636	:	DECISION ON
Filed: August 29, 2002	:	PETITION
Attorney Docket No. IDT-1742	:	

This is in response to the request for corrected filing receipt filed August 27, 2003. This paper is properly treated, as a petition under § 1.10, requesting that the above-identified application be accorded a filing date of August 29, 2002, rather than the presently accorded filing date of August 30, 2002, based on the date of deposit of the application in the "Express Mail Post Office to Addressee Service" of the United States Postal Service.

Petitioner maintains, in essence, that the above-identified application was deposited in the United States Postal Service (USPS) Express Mail Service on August 29, 2002, pursuant to the requirements of 37 C.F.R. § 1.10; however, the USPTO failed to accord the application a filing date as of the "date-in" or deposit date with the USPS. In support, petitioner submitted *a* copy of "Express Mail" mailing label No. EV185539771US.

The petition includes evidence in the form of a certificate of mailing thereon that the petition was originally filed by first class mail on October 31, 2002, but never received in the Office. Considering this evidence, it is concluded that the petition was filed promptly within the meaning of § 1.10.

Furthermore, a review of the evidence reveals that: The application transmittal of record in the application and identifying the papers presently accorded a filing date of August 30, 2002, bears the relevant "Express Mail" mailing label number. Thus, petitioner has shown that the "Express Mail" mailing label number was placed on the correspondence prior to the original mailing. In addition, the "Express Mail" mailing label shows both a date-in of August 29, 2002, and bears a USPS postmark of August 29, 2002.

In view thereof, the petition is **GRANTED**.

No petition fee is required and none has been charged.

The application is being forwarded to the Office of Initial Patent Examination for **correction of the filing date to August 29, 2002** and mailing of a corrected filing receipt.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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JOHN F. SCHIPPER, ESQ.
SUITE 808
111 N. MARKET STREET
SAN JOSE CA 95113

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OFFICE OF PETITIONS

In re Application of	:	
Jinchun Xie et al	:	
Application No. 10/231,647	:	ON PETITION
Filed: August 29, 2002	:	
Attorney Docket No. 6033-014	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

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

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 September 29, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 30, 2004.

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

This matter is being referred to Patent Publication.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

GORDON & JACOBSON, P.C.
65 WOODS END ROAD
STAMFORD, CT 06905

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JAN 16 2003

OFFICE OF PETITIONS

In re Application of :
Thomas O. Bales et al :
Application No. 10/231,666 : NOTICE
Filed: August 30, 2002 :
Attorney Docket No. SYN-072 :

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 3731.

Wan Layman

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

OIPE JC180
SEP 0 2 2003
PATENT & TRADEMARK OFFICE

3682 ST #4 9-11-03

PTO/SB/36 (05-03)
Approved for use through 04/30/2003. OMB 0651-0031
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

RESCISSION OF PREVIOUS NONPUBLICATION REQUEST
(35 U.S.C. 122(b)(2)(B)(ii))
AND, IF APPLICABLE
NOTICE OF FOREIGN FILING
(35 U.S.C. 122(b)(2)(B)(iii))

Send completed form to:
Mail Stop PG Pub
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX: (703) 305-8568

Application Number	10/231,707
Filing Date	August 30, 2002
First Named Inventor	Fraley, Richard
Title	Belt Tensioner for Electric Power Steering Unit
Atty Docket Number	1-23614
Group Art Unit	3682
Examiner	

A request that the above-identified application not be published under 35 U.S.C. 122(b) (nonpublication request) was included with the above-identified application on filing pursuant to 35 U.S.C. 122(b)(2)(B)(i). I hereby **rescind** the previous nonpublication request

If a notice of foreign or international filing is or will be required by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c), I hereby provide such notice. This notice is being provided no later than forty-five (**45**) days after the date of such foreign or international filing.

*If a notice of subsequent foreign or international filing required by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) was not filed within forty-five (**45**) days after the date of filing of the foreign or international application, the application is ABANDONED, and a petition to revive under 37 CFR 1.137(b) is required. See 37 CFR 1.137(f).*

August 29, 2003	RECEIVED	Signature
Date	SEP 0 4 2003	
(419) 255-5900	GROUP 3600	Scott A. Blake
Telphone number		Typed or printed name

This request must be signed in compliance with 37 CFR 1.33(b).

If information or assistance is needed in completing this form, please contact the Pre-Grant Publication Division at (703) 605-4283 or by e-mail at PGPub@USPTO.gov.

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop PG Pub, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile ((703) 305-8568) transmitted to the U.S. Patent and Trademark Office on the date shown below.

Name *(Print/Type)*	Amy M. Bell		
Signature		***Date***	August 29, 2003

Burden Hour Statement: This collection of information is required by 37 CFR 1.213(b). The information is used by the public to rescind a previously filed request that an applicatiuon not be published under 35 U.S.C. 122(b) (and the PTO to process that recission) . Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 6 minutes to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop PG Pub, 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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TOLEDO OH 43604-1619

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MAR 0 8 2005

OFFICE OF PETITIONS

In re Application of
Fraley et al.
Application No. 10/231,707
Filed: August 30, 2002
Attorney Docket No. 1-23614

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 30, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed March 5, 2004. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on June 5, 2004. A Notice of Abandonment was mailed on October 5, 2004.

This petition is hereby **GRANTED**.

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). 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 present petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the present petition desires to receive future

correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

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

This application is being forwarded to Technology Center 3600 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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JUL 27 2004

Fish & Richardson PC
225 Franklin Street
Boston, MA 02110

Paper No.

In re Application of
Daniel M. Lafontaine
Serial No. : 10/231,738
Filed : August 30, 2002
For : Cryo Ablation Coil

: DECISION ON PETITION
: TO WITHDRAW
: HOLDING OF
: ABANDONMENT
:

This is a decision on petitioner's request filed via facsimile transmission on July 7, 2004, to review the holding of abandonment mailed June 30, 2004 for failure to respond to the Office action mailed December 12, 2003. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response that was submitted via facsimile transmission on March 9, 2004. The response included a certificate of facsimile transmission dated March 9, 2004. Petitioner has also included a copy of a facsimile transmission report confirming transmission of the papers in question on March 9, 2004.

In view of the above, the Notice of Abandonment mailed June 30, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry and consideration of the response filed March 9, 2004.

Summary: Holding of Abandonment Withdrawn.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/07/20/04

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OFFICE OF PETITIONS

In re Application of
LaFontaine
Application No.10/231,738
Filed: August 30, 2002
Attorney Docket No. 10527-456001

DECISION GRANTING APPLICATION FOR PTA

This decision is in response to applicant's "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" timely[1] filed on March 4, 2005 requesting that the Office reconsider the PTA determination of 58 days and adjust the calculation to an amount of 155 days.

Applicant's request for PTA reconsideration is **GRANTED.** The Office will adjust the PTA determination reflected in PAIR to a determination of 155 days at the time of the mailing of the notice of allowance.

Applicants assert that the Office erred in entering into PALM the date of response to the non-final rejection mailed December 12, 2003 as July 7, 2004 rather than the date of March 9, 2004. Applicants assert that the improper date entry triggered a one hundred and seventeen (117) day reduction . Applicants assert that after the March 9, 2004 reply date, applicant submitted a supplemental paper on April 2, 2004 which should have resulted in a twenty-four (24) day reduction. In addition, applicant assert that the Office failed to respond to the March 9, 2004 response to the non-final until January 4, 2005, one hundred and seventy-nine day (179) delay.

Applicants arguments are persuasive. The Office notes that the Office did err in entering the date of response to the non-final rejection mailed December 12, 2003 as July 7, 2004 which triggered an incorrect three month reply period by applicants as well as a four month reply period by the USPTO. Applicant notes that the Office granted a petition to withdraw the holding of abandonment because applicant showed proof of the proper date of submission of the reply as March 9, 2004. Accordingly, because the correct date of receipt of the response to the non-final rejection mailed December 12, 2003 was March 9, 2004, applicants did not take over 3 months to reply to the Office action. The one hundred and seventeen day reduction is in error. However, because the submission was March 9, 2004, the applicant failed to engage in reasonable efforts to conclude prosecution of the application by submitting a supplemental paper (IDS) on April 2,

[1]Issue fee was paid on March 4, 2005

2003. The applicant delay was twenty-four days.[2] See 37 CFR 1.704(c)(8). In addition, the Office failed to respond to the March 9, 2004 reply within four months as required by 37 CFR 1.704(a)(2). The Office did not reply to the March 9, 2004 response until January 4, 2005, a one hundred and seventy-nine day (179) delay.[3] Accordingly, overall the correct amount of PTA at the time of the mailing of the notice of allowance is one hundred and fifty five (179-24=155) days.

After mailing of this decision the Office will forward this application to the Office of Patent Publication for a prompt issuance of the patent. Any delays in issuing the patent within four months of the payment of the issue fee will be reflected in the issue notification letter mailed approximately three weeks prior to the actual issue date of the patent.

The Office acknowledges the submission of the $200.00 fee pursuant to 37 CFR 1.18(e). No additional fees are required by applicants.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration 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 PTA determination (adjusted)

---

[2]The delay began on March 10, 2004 the day after the initial response and ended on April 2, 2004 the day of the filing of the IDS.

[3]The delay began on July 10, 2004 and ended on January 4, 2005, one hundred and seventy-nine days.

UNITED STATES PATENT AND TRADEMARK OFFICE

#9

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ALEXANDRIA, VA 22313-1450
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MAILED

DEC 17 2003

Office of the Director
Group 3600

SIEMENS CORPORATION
INTELLECTUAL PROPERTY LAW DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

In re Application of
Brian M. Curtis
Application No. 10/231,744
Filed: August 30, 2002
For: WEIGHT SENSOR ASSEMBLY FOR DETERMINING SEAT OCCUPANT WEIGHT

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

The papers faxed October 29, 2003 have been treated as a Petition to Withdrawal the Holding of Abandonment supplementing the papers filed August 12, 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 March 20, 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 examiner for appropriate action.

Randolph A. Reese

en/12/12/03

Randolph A. Reese
Special Programs Examiner
Group 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SIEMENS CORPORATION
INTELLECTUAL PROPERTY LAW DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

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JUL 2 7 2004
OFFICE OF PETITIONS

In re Application of
Curtis
Application No. 10/231,744
Filed: August 30, 2002
Attorney Docket No. 60426-469

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.182

This is a decision on the petition filed July 7, 2004 requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimer filed April 28, 2004, and received May 3, 2004, be withdrawn.

The petition is **granted**.

Petitioner asserts that as the claims for which the aforementioned terminal disclaimer was originally proffered have now been amended, there is no further need for the disclaimer to remain recorded against this application. The undersigned has consulted with the Technology Center (TC) assigned to this application, and the TC concurs. Accordingly, the terminal disclaimer is withdrawn.

Appropriate USPTO records have been corrected consistent with this decision, to show that the disclaimer has been withdrawn This decision constitutes mailed notice that the terminal disclaimer of May 3, 2004, is no longer acceptable.

The $130 petition fee has been charged to deposit account No. 50-1482.

Telephone inquiries related to this decision should be addressed to the undersigned at (703) 305-1820.

Brian Hearn

Brian Hearn
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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ALEXANDRIA, VA 22313-1450
www.uspto.gov

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OFFICE OF PETITIONS

AMSTER, ROTHSTEIN & EBENSTEIN
90 PARK AVENUE
NEW YORK NY 10016

In re Patent No. 6,872,198	:	
Issue Date: March 29, 2005	:	
Application No. 10/231,748	:	DECISION GRANTING PETITION
Filed: August 30, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 4798-13(18.9)	:	

This is a decision on the petition, filed March 23, 2006, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen-months after filing. *See* 37 CFR 1.137(f).

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on August 23, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country. Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the USPTO of the filing of a counterpart application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen-month publication country must be accompanied by:

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

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

This application matured into Patent No. 6,872,198 on March 29, 2005. Therefore, no further action being required, this patented file is being referred to Files Repository.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

KENYON & KENYON
ONE BROADWAY
NEW YORK NY 10004

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MAY 12 2003

OFFICE OF PETITIONS

In re Application of
Karl D'Amico and Jack Richmond
Application No. 10/231,786
Filed: August 30, 2002
Attorney Docket No.: 12563/1
Title: ADJUSTABLE BASKETBALL SYSTEM AND METHOD

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

This is in response to the petition under 37 C.F.R. 1.47(a)[1], filed March 6, 2003.

The above-identified application was filed on August 30, 2002, identifying Karl D'Amico and Jack Richmond as joint inventors. On September 30, 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 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), as well as the surcharge associated with the late filing of an oath or declaration. To make timely this reply, a three-month extension of time was requested. Petitioner has further included a declaration executed only by joint inventor

[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 a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review
(5) proof that the non-signing inventor refuses to join in the application, and;
(6) a declaration which complies with 37 CFR §1.63.

D'Amico, a declaration of facts executed by the same, a copy of the letter which was sent to the non-signing inventor at his place of business, and a copy of the Federal Express tracking report.

Petitioner has met requirements (1) – (3) above.

Regarding the fourth requirement above, it is not clear if the non-signing inventor actually received the above-mentioned papers. The declaration of facts asserts that a copy of the application was sent to his last known address, which is given as "Marion Manufacturing Inc., 201 South Coble, Marion, KS, 66861." The correspondence described above is not sufficient to make the necessary showing that the non-signing inventor was ever presented with a copy of the application and a declaration or oath, for the Office requires these materials to be sent to the residence of the inventor, as that is most likely the location where he might receive mail. Unfortunately, it is not clear where precisely this address is.

Furthermore, the Federal Express tracking report establishes that the package was received by one K. Kukuk. It is not clear who this individual is, and it has not been established that this individual delivered the package to the non-signing inventor. What is clear is that the non-signing inventor did not receive the package directly from Federal Express.

This statement of the signing inventor reproduced above makes it clear that the signing joint inventor believes that the non-signing inventor customarily receives mail at his place of business. However, it is noted that the declaration, executed by this same signing inventor, gives both the residential and mailing address of the non-signing inventor to be "1616 Remington Road, Marion, KS, 66861." As such, the petitioner has filed papers containing conflicting statements from the signing inventor as to where the non-signing inventor normally receives his mail.

This discrepancy must be cleared up on renewed petition. If the signing inventor was correct in his declaration of facts, then no further action need be taken pertaining to the attempt to deliver the papers to the non-signing inventor. If the declaration is to be believed, the papers will need to be delivered to the residential address, is this is the location where the non-signing inventor customarily receives mail.

Regarding the item (5) above, as it is not clear if the non-signing inventor ever received the materials, it follows that one cannot refuse to sign something which one has not seen. It is noted that although the declarant states that he spoke to the non-signing inventor on two separate occasions after mailing the package to his business address, nowhere does the declarant allege that the non-signing inventor ever confirmed receipt of these materials.

Regarding item (6) above, as it is not clear whether the declaration correctly states the residential and mailing address correctly, it cannot be determined whether or not the declaration is acceptable. Depending on the resolution of item (4) above, a new declaration may need to be submitted.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.47(a)."

The reply to this letter may be submitted by mail[2], hand-delivery[3], or facsimile[4].

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

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

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

2 Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1460, Alexandria, VA 22313-1460. **Note that this is a new address, as the USPTO has changed addresses as of May 1, 2003.**

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

4 (703) 308-6916, Attn: Office of Petitions.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 9

KENYON & KENYON
ONE BROADWAY
NEW YORK NY 10004

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SEP 15 2003
OFFICE OF PETITIONS

In re Application of
Karl D'Amico and Jack Richmond
Application No. 10/231,786
Filed: August 30, 2002
Attorney Docket No.: 12563/1
Title: ADJUSTABLE BASKETBALL SYSTEM AND METHOD

DECISION NOTING JOINDER AND DISMISSING PETITION UNDER 37 C.F.R. §1.47(a) AS MOOT

This is in response to the renewed petition under 37 C.F.R. 1.47(a)[1], filed August 21, 2003.

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on August 30, 2002, identifying Karl D'Amico and Jack Richmond as joint inventors. On September 30, 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 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the original petition, which was dismissed via a decision mailed on May 12, 2003, for failure to met requirements (4) – (6) above.

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(6) a declaration which complies with 37 CFR §1.63.

With the renewed petition, petitioner has submitted a declaration which has been executed by both joint inventors. This declaration has been reviewed and found in compliance with 37 §CFR 1.63. Petitioner has also submitted a two-month extension of time to make timely this response.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-4-06

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/831814 Patent No.: 6967091

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.

Can this be Approved

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: _____

SPE

1647

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Kirk A. Vander Leest, McAndrews,
Held & Malloy, Ltd.
34th Flr.
500 W. Madison
Chicago IL 60661

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MAY 30 2008

OFFICE OF PETITIONS

In re Patent No. 6,991,525	:	
Issued: 01/31/2006	:	
Application No. 10/231,862	:	NOTICE
Filed: 08/30/2002	:	
Attorney Docket No. 13844US01	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed July 18, 2007, and resubmitted on November 4, 2007.

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.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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RENNER, KENNER, GREIVE, BOBAK, TAYLOR & WEBER
FOURTH FLOOR
FIRST NATIONAL TOWER
AKRON, OH 44308

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MAY 21 2004
OFFICE OF PETITIONS

In re Application of	:	
Nelson et al.	:	
Application No. 10/231,907	:	DECISION GRANTING PETITION
Filed: August 30, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. ZIC.5036.34	:	

This is a decision on the petition, filed April 6, 2004, 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 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 July 22, 2004 was previously mailed out on April 15, 2004.

This application is being forwarded to Technology Center Art Unit 3712 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase

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

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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MOORE AND VAN ALLEN PLLC FOR SEMC
P.O. BOX 13706
430 DAVIS DRIVE, SUITE 500
RESEARCH TRIANGLE PARK NC 27709

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AUG 14 2007

OFFICE OF PETITIONS

In re Application of	:	
CHENNAKESHU, et al.	:	
Application No. 10/231,958	:	DECISION ON PETITION
Filed: August 30, 2002	:	UNDER 37 CFR 1.313(c)(1)
Attorney Docket No. **019778-000013**	:	

This is a decision on the petition under 37 CFR 1.313(c), filed August 8, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED.**

37 CFR 1.313(c) provides that:

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

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

(2) Consideration of a request for continued examination in compliance with 37 CFR 1.114; or

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

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). The circumstances of the above-identified application do not fall within any of those exceptions.

For the reason stated above, the petition under 37 CFR 1.313(c) cannot be granted.

Petitioner is reminded that the filing of any renewed petition to withdraw from issue may not be recognized or effective if not received by the appropriate deciding official in time to act prior to issuance. *Note* 37 CFR 1.313(d). It is recommended that the facsimile number listed below be used to file the renewed petition.

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

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

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

By fax: **(571) 273-0025**
Office of Petitions

Any questions concerning this matter may be directed to Monica A. Graves at (571) 272-7253.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

2/11/08

Patent No. :7269846
Ser. No. : 10231958
Inventor(s) :Linden et al.
Issued : 2/11/07
Title : MOBILE TERMINAL HAVING VIRUS RESISTANT SECURITY MODULE ARCHITECTURE
Docket No. :

Re: Request for Certificate of Correction

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

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
40l Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

STEVEN B. PHILLIPS
P.O. BOX 13706
RESEARCH TRIANGLE PLARK, NC 27709

HR

UNITED STATES PATENT AND TRADEMARK OFFICE

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430 DAVIS DRIVE, SUITE 500
RESEARCH TRIANGLE PARK NC 27709

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SEP 30 2009

OFFICE OF PETITIONS

In re Patent No. 7,269,846 :

Issue Date: September 11, 2007 :

Application No. 10/231,958 : ON PETITION

Filed: August 30, 2002 :

Attorney Docket No. 019778-000013

This is a decision on the petition filed September 1 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

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JC26
PATENT & TRADEMARK OFFICE

#3

PTO/SB/64 (08-03)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional)

First named inventor: MICHAEL T. ROSSIDES

Application No.: 10/231,960 Art Unit: 3713

Filed: 08/30/2002 Examiner:

Title: Communications System Using Bets

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SEP 1 7 2003
OFFICE OF PETITIONS

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX: (703) 308-6916

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

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 $ 650 (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 submission of missing parts (identify type of reply):
☐ has been filed previously on _____.
☒ is enclosed herewith.
B. The issue fee of $_____.
☐ has been paid previously on _____.
☐ is enclosed herewith.

09/15/2003 SLUANG1 00000012 10231960
01 FC:2453 650.00 DP

This collection of information is required by 37 CFR 1.137. 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. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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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: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

9/11/2003
Date

Signature

Telephone Number: 480-515-3630

Michael T. Rossides
Typed or printed name

11167 E. Mirasol Circle
Address

Scottsdale, AZ 85255
Address

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OFFICE OF PETITIONS

Enclosures: ☒ Fee Payment
☒ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☒ Other: substitute specification + oath + copy of missing parts notice

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 (703) 308-6916.

9/11/03
Date

Signature

Michael T. Rossides
Type or printed name of person signing certificate

09-12-03

DAC/$

OIPE JC26
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PTO/SB/21 (08-03)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	10/231,960
Filing Date	08/30/2002
First Named Inventor	MICHAEL T. ROSSIDES
Art Unit	3713
Examiner Name	
Attorney Docket Number	

Total Number of Pages in This Submission

ENCLOSURES *(Check all that apply)*

- [x] Fee Transmittal Form
  - [x] Fee Attached
- [ ] Amendment/Reply
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [x] Response to Missing Parts/ Incomplete Application
  - [x] Response to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [x] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s) _____
- [ ] After Allowance communication to Technology Center (TC)
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to TC **(Appeal Notice, Brief, Reply Brief)**
- [ ] Proprietary Information
- [ ] Status Letter
- [x] Other Enclosure(s) (please Identify below):

Remarks

Substitute specification enclosed.

Missing Oath/Declaration enclosed.

copy of missing parts notice enclosed.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	MICHAEL T. ROSSIDES
Signature	Michael T. Rossides
Date	9/11/2003

CERTIFICATE OF TRANSMISSION/MAILING

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

Typed or printed name	MICHAEL T. ROSSIDES		
Signature	Michael T. Rossides	Date	9/11/2003

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 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.**

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FEE TRANSMITTAL for FY 2003

Effective 01/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 715

Complete if Known	
Application Number	10/231,960
Filing Date	8/30/2002
First Named Inventor	Michael T. Rossides
Examiner Name	
Art Unit	3713
Attorney Docket No.	

METHOD OF PAYMENT *(check all that apply)*

☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☐ Deposit Account:

Deposit Account Number

Deposit Account Name

The Director is authorized to: *(check all that apply)*

☐ Charge fee(s) indicated below ☐ Credit any overpayments

☐ Charge any additional fee(s) during the pendency of this application

☐ Charge fee(s) indicated below, **except for the filing fee** to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
1001	750	2001	375	Utility filing fee	
1002	330	2002	165	Design filing fee	
1003	520	2003	260	Plant filing fee	
1004	750	2004	375	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) ($)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

	Extra Claims		Fee from below		Fee Paid
Total Claims		-20** =		X	=
Independent Claims		- 3** =		X	=
Multiple Dependent					=

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
1202	18	2202	9	Claims in excess of 20
1201	84	2201	42	Independent claims in excess of 3
1203	280	2203	140	Multiple dependent claim, if not paid
1204	84	2204	42	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) ($)

***or number previously paid, if greater; For Reissues, see above*

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	65
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for *ex parte* reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	410	2252	205	Extension for reply within second month	
1253	930	2253	465	Extension for reply within third month	
1254	1,450	2254	725	Extension for reply within fourth month	
1255	1,970	2255	985	Extension for reply within fifth month	
1401	320	2401	160	Notice of Appeal	
1402	320	2402	160	Filing a brief in support of an appeal	
1403	280	2403	140	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,300	2453	650	Petition to revive - unintentional	650
1501	1,300	2501	650	Utility issue fee (or reissue)	
1502	470	2502	235	Design issue fee	
1503	630	2503	315	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	750	2809	375	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	750	2810	375	For each additional invention to be examined (37 CFR 1.129(b))	
1801	750	2801	375	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) ($) 715

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SUBMITTED BY				(Complete *(if applicable)*)	
Name (Print/Type)	Michael T. Rossides	Registration No. (Attorney/Agent)		Telephone	480-513-3630
Signature	Michael T. Rossides			Date	9/11/2003

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This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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COMMISSIONER FOR PATENTS
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Paper No. 6

MICHAEL T. ROSSIDES
11167 E. MIRASOL CIRCLE
SCOTTSDALE, AZ 85255

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NOV 21 2003
OFFICE OF PETITIONS

In re Application of :
Michael T. Rossides :
Application No. 10/231,960 : ON PETITION
Filed: August 30, 2002 :
Title: COMMUNICATIONS SYSTEM USING :
BETS

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

The petition is **GRANTED**.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CARLSON, GASKEY & OLDS, P.C./Alcatel-Lucent
400 W MAPLE RD
SUITE 350
BIRMINGHAM, MI 48009

Mail Date: 04/21/2010

Applicant	: David Garrett	: DECISION ON REQUEST FOR
Patent Number	: 7609777	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/231,980	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/30/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1853** 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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DIW Oct-07

MICHAEL S GZYBOWSKI
BUTZEL LONG
350 SOUTH MAIN STREET
SUITE 300
ANN ARBOR MI 48104

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OCT 02 2007

OFFICE OF PETITIONS

In re Application of	:	
Yuugo Nishiyama	:	DECISION ON PETITION TO
Application Number: 10/231983	:	WITHDRAW HOLDING OF
Filing Date: 08/30/2002	:	ABANDONMENT
Attorney Docket Number: TKA0037	:	

This is a decision on the petition filed on 16 August, 2007, which is treated as a petition to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

A review of the record reveals that a Notification of Non-Compliant Appeal Brief (37 CFR 41.37) was mailed on 9 August, 2006, setting a one (1) month shortened time period for filing an amended Appeal Brief. Notice of Abandonment was mailed on 15 March, 2007.

Petitioner asserts that an amended Appeal Brief was timely filed. In support, petitioners have supplied a copy of the amended brief, which contains a Certificate of Mailing or Transmission dated 11 September, 2006, stating that the correspondence was deposited in first class mail, and signed by attorney Miachel S. Gzybowski (Reg. No. 32,816). The petition includes a statement by attorney Gzybowski in which he states that the corrected brief was filed in a timely manner. The petition also includes a statement by counsel's secretary, Dabra L. Burns, stating that she deposited the envelope containing the Appeal Brief in the mail, and that, according to her records, it was mailed on 11 September, 2006.

The statement provided is considered to be a statement to the

Satisfaction of the Director to the previous timely mailing or transmission of the reply.[1]

As petitioners have provided convincing evidence that an amended Appeal Brief was transmitted to the USPTO on 11 September, 2006, the showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

The application is being referred to Technology Center Art Unit 3643 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

[1] See 37 CFR 1.8(b)(3).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 7

U.S. Philips Corporation
580 White Plains Road
Tarrytown, NY 10591

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MAR 2 8 2003

OFFICE OF PETITIONS

In re Application of
Van Wageningen et al.
Application No. 10/232,014
Filed: August 30, 2002
Attorney Docket No. DE010248

ON PETITION

This is a decision on the petition filed March 13, 2003, to accord the above-identified application a filing date of August 30, 2002, instead of August 29, 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 30, 2002.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of August 30, 2002.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6973765	2005-12-13	10232018	2002-08-30	4952/0184PUS1

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	/Joe McKinney Muncy/	Date (YYYY-MM-DD)	2010-05-19
Name	Joe McKinney Muncy	Registration Number	32334

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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6973765
Issue Date: December 13,2005
Application No. 10232018
Filed: August 30,2002
Attorney Docket No. 4952/0184PUS1

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

This is a decision on the electronic petition, filed May 19,2010 ,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 May 19,2010 .
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.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

Arnold S. Weintraub
Plunkett & Cooney, P.C.
Suite 3000
38505 Woodward
Bloomfield Hills, MI 48304

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JUL 0 2 2003

OFFICE OF PETITIONS

In re Application of	:	
Booms et al.	:	
Application No. 10/232,020	:	DECISION GRANTING
Filed: August 30, 2002	:	PETITION
Attorney Docket No. VGA 107 A	:	

This is a decision on the petition filed June 2, 2003, to accord the above-identified application a filing date of August 30, 2002.

On August 30, 2002, the application was filed.

On April 8, 2003, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of drawings.

In response, the present petition was filed alleging that 11 sheets of drawings were deposited on August 30, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "Drawings (11 Sheets/11 Figs.)" on August 30, 2002.[1] Petitioner has also submitted a copy of the missing documentation- 11 sheets of drawings.

Upon review of the record, the drawing sheets deposited on August 30, 2002, have not been located. However, the evidence is convincing that the application papers deposited on August 30, 2002, included the drawings and that the drawings were subsequently misplaced in the PTO. Therefore, the application is complete and entitled to a filing date of August 30, 2002.

In view of the above, the petition is **granted**. The copy of the drawings submitted with the petition will be used for examination purposes.

The petition fee of $130 will be credited to petitioner's deposit account.

The Notice mailed April 8, 2003, was sent in error and is hereby vacated.

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 30, 2002, using the application papers filed on August 30, 2002, and the copy of the 11 sheets of drawings filed on June 2, 2003.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,854,168	2005-02-15	10/232,020	2002-08-30	VGA-107-A

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

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Arnold S. Weintraub/	Date (YYYY-MM-DD)	2009-07-24
Name	Arnold S. Weintraub	Registration Number	25523

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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In re Patent No. 6854168
Issue Date: February 15,2005
Application No. 10232020
Filed: August 30,2002
Attorney Docket No. VGA-107-A

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

This is a decision on the electronic petition, filed July 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 July 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

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Paper No.11

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OFFICE OF PETITIONS

LAHIVE & COCKFIELD, LLP
28 STATE STREET
BOSTON MA 02109

In re Application of
Guriq Basi et al
Application No. 10/232,030
Filed: August 30, 2002
Attorney Docket No. ELN-002CN

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

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 28, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/201,430, filed November 30, 1998.

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 30, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an application data sheet, as required by 37 CFR 1.78(a)(2)(iii).

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

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

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

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8859.

This application is being forwarded to the Office of Initial Patent Examination Division. Afterwards, the application will be 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 prior-filed nonprovisional Application No. 09/201,430, filed November 30, 1998.

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

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PHILIP S JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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JUL 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Basi, et al.	:	
Application No. 10/232,030	:	ON PETITION
Filed: August 30, 2002	:	
Attorney Docket No. 15270C-006011US	:	

This is in response to the "PETITION UNDER 37 CFR 1.182 TO REQUEST WITHDRAWAL OF A RECORDED TERMINAL DISCLAIMER", filed March 11, 2009.

Applicants have requested to withdraw a terminal disclaimer, filed on June 30, 2008. However, in an Office communication mailed on May 27, 2009, the Office indicated that the Terminal Disclaimer was disapproved.

Accordingly, the request is **DISMISSED** as moot.

The application is being forwarded to the Office of Data Management for processing into a patent.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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TOWNSEND AND TOWNSEND AND CREW, LLP
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SAN FRANCISCO CA 94111-3834

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In re Patent No. 7,582,733 :	DECISION ON
Basi et al. :	APPLICATION FOR
Issue Date: September 1, 2009:	PATENT TERM ADJUSTMENT
Application No. 10/232,030 :	
Filed: August 30, 2002 :	
Atty Docket No.15270C-006011US:	
:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(b)" filed December 4, 2008. Applicant maintains that the correct patent term adjustment is three hundred forty-two (342) days, not zero (0) days as indicated on the initial determination of patent term adjustment.

The request for reconsideration of the patent term adjustment under 37 CFR 1.705(b) is **GRANTED to the extent indicated herein**.

However, for the reasons stated herein, no correction to the patent term adjustment of zero (0) days is warranted.

On September 4, 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 to date is 0 days. The instant application for patent term adjustment was timely filed[1] on or before payment of the issue fee. Applicant disputes the period of reduction of 558 days associated with the payment of filing fees on August 11, 2004. Applicant maintains that this period should only be 117 days. Applicant also disputes the period of reduction of 1

[1] PALM records indicate that the issue fee was also paid on December 4, 2008.

day associated with the filing of an information disclosure statement (IDS) on February 28, 2007. Applicant points out that the IDS was filed with the request for continued examination (RCE) on February 28, 2007, and thus, no period of reduction for filing a supplemental paper is warranted. Applicant further argues that the period of reduction for filing a supplemental amendment on July 10, 2008 is 9, not 10 days.

Applicant's arguments have been considered, and it is determined that the period of reduction for applicant delay requires correction. The period of reduction of 558 days is being removed and a period of reduction of 117 days is being entered. The paper of August 11, 2004 was a decision on petition for which no applicant delay could be attributed. The proper basis for applicant delay was, pursuant to 37 CFR 1.704(b), failure to file a complete and proper response to the notice to file missing parts of application mailed October 31, 2002 until May 28, 2003. As acknowledged by applicant, this period of reduction is 117 days.

Likewise, the period of reduction of 1 day associated with the IDS is being removed. As stated by applicant, both the RCE and the IDS were filed on February 28, 2007. Accordingly, entry of a period of reduction pursuant to 37 CFR 1.704(c)(8) was not warranted.

However, the entry of a period of reduction of 10 days is correct. The initial reply was filed on June 30, 2008, and the supplemental amendment was filed on July 10, 2008. Thus, pursuant to 37 CFR 1.704(c)(8), the period of delay is 10 days counting (inclusively) July 1, 2008 to July 10, 2008.

The period of reduction of 117 days has been entered and the periods of reduction of 558 days and 1 day have been removed.

The initial determination of patent term adjustment remains zero (0) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

To the extent that patentee requests reconsideration of the patent term adjustment in the patent solely on the basis of the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), patentee may file a request that the USPTO recalculate the

patent term adjustment without a request for reconsideration under 37 CFR 1.705(d) (or fee), provided that the patentee's sole basis for requesting reconsideration of the patent term adjustment in the patent is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) and such a request is filed within 180 days of the day the patent was granted. This request may be made by way of a Request for Recalculation of Patent Term Adjustment in View of Wyeth form (PTO/SB/131), on the USPTO Web site at http://www.uspto.gov/forms/index.jsp.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Nancy Johnson at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM PTA Calculation

Day : Wednesday

PALM INTRANET

Date: 2/17/2010
Time: 06:17:04

PTA Calculations for Application: 10/232030			
Application Filing Date:	08/30/2002	PTO Delay (PTO):	696
Issue Date of Patent:	09/01/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	1165
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	442		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
146	02/08/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	1		
145	02/08/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		117	
144	02/08/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	558		
139.5	08/12/2009	PTA 36 MONTHS	147		
139	09/01/2009	PATENT ISSUE DATE USED IN PTA CALCULATION	150		120
138	08/04/2009	EXPORT TO FINAL DATA CAPTURE			
137	07/31/2009	DISPATCH TO FDC			
136	07/29/2009	MAIL-PETITION DECISION - DISMISSED			
135	07/29/2009	PETITION DECISION - DISMISSED			
134	07/24/2009	TC RETURN TO PUBS			
133	05/27/2009	PARALEGAL TD ACCEPTED			
132	05/27/2009	PARALEGAL TD ACCEPTED			
131	05/18/2009	PARALEGAL TD NOT ACCEPTED			
130	05/18/2009	PARALEGAL TD NOT ACCEPTED			
129	05/18/2009	PARALEGAL TD NOT ACCEPTED			
128	05/18/2009	PARALEGAL TD NOT ACCEPTED			
127	03/11/2009	PETITION ENTERED			
126	04/15/2009	APPLICATION MADE UNAVAILABLE FOR EXAMINATION			
125	12/04/2008	PUBS CASE REMAND TO TC			
124	02/09/2009	FINISHED INITIAL DATA CAPTURE			
123	12/04/2008	TERMINAL DISCLAIMER FILED		120	
122	01/26/2009	TERMINAL DISCLAIMER FEE PAID			
121	12/05/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
120	12/04/2008	ISSUE FEE PAYMENT VERIFIED			

119	12/04/2008	ISSUE FEE PAYMENT RECEIVED			
118	09/19/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
117	09/08/2008	EXPORT TO INITIAL DATA CAPTURE			
115	09/04/2008	MAIL NOTICE OF ALLOWANCE			
114	09/02/2008	PARALEGAL TD ACCEPTED			
113	09/02/2008	PARALEGAL TD ACCEPTED			
112	06/30/2008	TERMINAL DISCLAIMER FILED			
111	06/30/2008	TERMINAL DISCLAIMER FILED			
110	09/02/2008	ISSUE REVISION COMPLETED			
109	09/02/2008	DOCUMENT VERIFICATION			
108	09/02/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
107	09/02/2008	EXAMINER'S AMENDMENT COMMUNICATION			
106	09/02/2008	NOTICE OF ALLOWABILITY			
105	08/29/2008	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
104	08/28/2008	CORRESPONDENCE ADDRESS CHANGE			
103	08/27/2008	PARALEGAL TD NOT ACCEPTED			
102	08/27/2008	PARALEGAL TD NOT ACCEPTED			
101	06/30/2008	TERMINAL DISCLAIMER FILED			
100	08/01/2008	DATE FORWARDED TO EXAMINER			
99	07/10/2008	SUPPLEMENTAL RESPONSE		10	96
98	06/30/2008	TERMINAL DISCLAIMER FILED			
97	08/01/2008	DATE FORWARDED TO EXAMINER			
96	06/30/2008	AMENDMENT AFTER FINAL REJECTION			
95	03/04/2008	REFERENCE CAPTURE ON IDS			
94	03/04/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		78	82
93	04/22/2008	CASE DOCKETED TO EXAMINER IN GAU			
92	04/01/2008	MAIL FINAL REJECTION (PTOL - 326)			
91	03/28/2008	FINAL REJECTION			
90	03/04/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
89	12/17/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
87	03/04/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
86	12/17/2007	REFERENCE CAPTURE ON IDS			
85	12/17/2007	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
84	12/17/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
83	01/16/2008	DATE FORWARDED TO EXAMINER			
82	12/17/2007	RESPONSE AFTER NON-FINAL ACTION		93	78
81	12/17/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
80	12/17/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
79	09/05/2007	CORRESPONDENCE ADDRESS CHANGE			
78	06/15/2007	MAIL NON-FINAL REJECTION			
77	05/14/2007	NON-FINAL REJECTION			
76	10/03/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
75	02/28/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
74	02/28/2007	REFERENCE CAPTURE ON IDS			
73.7	02/28/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		1	68
73	02/28/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
72	02/28/2007	MISCELLANEOUS INCOMING LETTER			
71	03/09/2007	DATE FORWARDED TO EXAMINER			
70	02/28/2007	RCE- AF PROCESSED			
69	03/09/2007	DATE FORWARDED TO EXAMINER			
68	02/27/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
67	03/09/2007	DISPOSAL FOR A RCE / CPA / R129			
66	02/28/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
65	01/30/2007	MAIL APPEALS CONF. PROCEED TO BPAI			
64	01/25/2007	PRE-APPEALS CONFERENCE DECISION - PROCEED TO BPAI			
63	12/21/2006	REQUEST FOR PRE-APPEAL CONFERENCE FILED			
62	12/21/2006	NOTICE OF APPEAL FILED		90	54
61	12/21/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
60	10/30/2006	MAIL ADVISORY ACTION (PTOL - 303)			
59	10/27/2006	ADVISORY ACTION (PTOL-303)			
58.7	10/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
58	10/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
57	10/12/2006	DATE FORWARDED TO EXAMINER			
56	10/03/2006	AMENDMENT AFTER FINAL REJECTION			
55	10/03/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
54	06/22/2006	MAIL FINAL REJECTION (PTOL - 326)			
53	06/21/2006	FINAL REJECTION			
52	03/15/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
51	04/26/2006	DATE FORWARDED TO EXAMINER			
50	04/13/2006	RESPONSE AFTER NON-FINAL ACTION		29	43
49	04/13/2006	NEW OR ADDITIONAL DRAWING FILED			
48	04/11/2006	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
47	04/03/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
46	03/15/2006	NEW OR ADDITIONAL DRAWING FILED			
45.7	03/15/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	03/15/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44	03/31/2006	DATE FORWARDED TO EXAMINER			
43.1	03/15/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
43	03/15/2006	RESPONSE AFTER NON-FINAL ACTION		60	41
42	03/15/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
41	10/14/2005	MAIL NON-FINAL REJECTION			
40	06/16/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
39	08/30/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
38	10/03/2005	NON-FINAL REJECTION			
37	09/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
36	08/26/2005	CASE DOCKETED TO EXAMINER IN GAU			
35	08/24/2005	CASE DOCKETED TO EXAMINER IN GAU			
34	07/26/2005	DATE FORWARDED TO EXAMINER			
33	07/06/2005	RESPONSE TO ELECTION / RESTRICTION FILED		34	27

32	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
31	06/16/2005	REFERENCE CAPTURE ON IDS			
30.7	06/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	06/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	06/15/2005	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
28	06/14/2005	DATE FORWARDED TO EXAMINER			
27.1	06/02/2005	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
27	06/02/2005	RESPONSE TO ELECTION / RESTRICTION FILED		92	19
26	06/02/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	05/28/2003	PRELIMINARY AMENDMENT			
24.7	08/30/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	08/30/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	08/30/2002	PRELIMINARY AMENDMENT			
22	05/24/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	04/19/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	12/02/2004	MAIL RESTRICTION REQUIREMENT	399		-1
18	12/02/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
17	09/13/2004	CASE DOCKETED TO EXAMINER IN GAU			
16	09/02/2004	APPLICATION DISPATCHED FROM OIPE			
15	09/03/2004	APPLICATION IS NOW COMPLETE			
14	08/11/2004	ADDITIONAL APPLICATION FILING FEES		558	7
13	08/11/2004	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
12	08/11/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
11	08/11/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
10	08/11/2004	MAIL-PETITION DECISION - GRANTED			
9	06/18/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
8	05/28/2003	PETITION ENTERED			

7	10/31/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	08/30/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
4	09/15/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	09/07/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	08/30/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	08/30/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Guriq Basi	: DECISION ON REQUEST FOR
Patent Number	: 7582733	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/232,030	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/30/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **303** 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 : 5-26-2010

TO SPE OF : ART UNIT 1643

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/232030 Patent No.: 7582733

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

Should seq be deleted?
Please reply A/S/A/P

Eva James
Certificates of Correction Branch
703-756-1583 _____

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**

Employee Locator

Search Result

	HOTELING
Name	**NATARAJAN MEERA**
Employee No	**83442**
Organization	**P/1643--GROUP ART UNIT 1643**
Email	**meera.natarajan@uspto.gov**
System Login Id	**mnatarajan**

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OFFICE OF PETITIONS

In re Application of :
Cristian Fierro, et al. :
Application No. 10/232,031 :
Filed: May 16, 2002 :
Attorney Docket No. OBC 85.6 :

ON PETITION

This is a decision on the petition, filed May 3, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed October 31, 2003. A Notice of Abandonment was mailed on July 16, 2004. In response, the present petition was filed.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9220. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 1745 for consideration of the response filed May 3, 2004.

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

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OFFICE OF PETITIONS

In re Application of	:
Charles F. Manker et al	:
Application No. 10/232,062	: DECISION GRANTING PETITION
Filed: August 30, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 5217-08-1-1-1	:

This is a decision on the petition, filed February 8, 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 October 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) 272-3218.

This matter is being referred to Technology Center AU 3739 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

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1300 EAST NINTH STREET, SUITE 1700
CLEVELAND, OH 44114

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OFFICE OF PETITIONS

In re Application of :
Il, et al. :
Application No. 10/232,074 : ON PETITION
Filed: August 30, 2002 :
Attorney Docket No. LM(F)5712 :

This is a decision on the petition under 37 CFR 1.181, filed June 30, 2006, to withdraw the holding of abandonment.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed October 26, 2005. A "Notice of Non-Compliant Amendment" (Notice) was mailed January 30, 2006, which set a one (1) month or thirty (30) day period to reply. Accordingly, this application became abandoned on March 2, 2006.

Petitioner asserts the Notice was not received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

The required statements and docket records have been submitted and considered.

The petition is granted. In view thereof, the holding of abandonment is withdrawn.

The application file is being forwarded to the Technology Center 2600 for review of the "Response To Notice of Non-Compliant Amendment," filed June 30, 2006, *in due course*.

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

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

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA GA 30339-5948

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DEC 0 2 2002

OFFICE OF PETITIONS

In re Application of	:	
Jones et al.	:	
Application No. 10/232,078	:	ON PETITION
Filed: 30 August, 2002	:	
Atty's Dkt No. Jones 18-4-1-6-26	:	

This is a decision on the petition filed on 17 October, 2002, which is treated as a petition requesting that the Notice of Omitted Item(s) in a Nonprovisional Application mailed on 26 September, 2002, be withdrawn.

The petition is granted.

The application was filed on 30 August, 2002. However, on 26 September, 2002, Initial Patent Examination Division mailed a "Notice" stating, *inter alia*, that the application had been accorded a filing date but that Figures 2a, 2b, and 4 described in the specification appeared to have been omitted.

In response, on 17 October, 2002, petitioners the present petition, accompanied by four (4) sheets of drawings containing Figures 1, 2a, 2b, 3, and 4. Petitioners argue that Figures 2a, 2b, and 4 were filed with the other application papers on 30 August, 2002, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt bears a USPTO Office stamp dated 30 August, 2002, and showing the above-identified application number, and identifies the application by first named inventor's name, invention title, and docket number, and itemizes the filing of, *inter alia*, 4 pages of drawings).

A review of the record reveals that, due to an error on the part of the USPTO, the drawings filed by petitioners on 30 August, 2002, had become separated from the application file, and that the drawings for a different application had been misplaced in

the present application file. The correct drawings have now been matched with the application file.

Therefore, the application, including Figures 2a, 2b, and 4, is entitled to a filing date of 30 August, 2002. The Notice mailed on 26 September, 2002, is vacated.

The application will be reprocessed using the four (4) sheets of drawings containing Figures 1, 2a, 2b, 3, and 4 filed on 30 August, 2002. The copy of the four (4) sheets of drawings supplied with the present petition will not be used for processing or examination, but will be retained in the application file.

In view of the above, the petition is granted. No petition fee is due and none has been paid.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 30 August, 2002, using the application papers filed on 30 August, 2002, and for an indication in Office records that four (4) sheets of drawings were present on filing.

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

D Wood

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

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OFFICE OF PETITIONS

In re Application of
Cem Basceri et al
Application No. 10/232,091
Filed: August 29, 2002
Attorney Docket No. 303.661US2

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

This is a decision on the petition under 37 CFR 1.313(c)(2), received April 1, 2004, to withdraw the above-identified application from issue.

The petition is **DISMISSED as moot**.

Unfortunately, the instant petition was not received within sufficient time to avert the issuance of the above-identified application into a patent. In this regard, the petition shown by petitioner's copy of a transmission report to have been facsimile transmitted to the USPTO on February 18, 2004 did not reach the deciding official's office for action prior to issuance of the instant application into Patent No. 6,696,716 on February 24, 2004.

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

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

Since a petition to withdraw the instant application from issue was not granted prior to issuance of the instant application into a patent, the request for continued examination (RCE) filed concurrently with the instant petition is improper and will not be processed. No fees have been assessed to the petition to withdraw from issue and the RCE.

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

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

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

The patented file is being forwarded to Files Repository.

Frances Hicks

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

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CORNING, NY 14831

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OFFICE OF PETITIONS

In re Application of
George E. Berkey, et al.
Application No. 10/232,099
Filed: August 29, 2002
Attorney Docket No. SP02-183

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 2004, which is being treated as a petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment of the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed December 9, 2004, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). Since no reply was allegedly received, the application became abandoned on January 10, 2005.

Petitioner indicates that the response to the office action was filed timely with a certificate of mailing dated January 6, 2005. To support this assertion, petitioner has submitted a copy of the original response with the certificate of mailing dated January 6, 2005. Petitioner has also provided a copy of the post card receipt, which shows that the reply to the Notice was timely received in the USPTO on January 6, 2005. It is also noted that the application number on the response was incorrectly listed as 10/232/009. However, there were enough identifiers on the response to associate it to the application file. It has been established that the response to the restriction requirement was timely filed via certificate of mailing on January 6, 2005. In view thereof, the application was improperly held abandoned.

Since the response is considered timely in view of 37 CFR 1.8, no petition to revive under 37 CFR 1.137(b) is necessary. Petitioner's deposit account will be credited $1,500 for the petition fee.

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

The application matter is being referred to Technology Center 1700, Art Unit 1731 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

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WASHINGTON, D.C. 20231
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Paper No. 8

CORPORATE PATENT COUNSEL
U.S. PHILIPS CORPORATION
580 WHITE PLAINS ROAD
TARRYTOWN, NY 10591-5190

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APR 0 4 2003

OFFICE OF PETITIONS

In re Application of
Wang et al.
Application No. 10/232,108
Filed: August 30, 2002
Attorney Docket No. NL020955

ON PETITION

This decision concerns the March 24, 2003 petition under 37 CFR 1.10(c), requesting that the above-referenced application be accorded a filing date of August 30, 2002 rather than the presently accorded filing date of August 29, 2002.

The petition is **GRANTED**.

Petitioners request a later filing date of August 30, 2002, on the basis that the application was deposited on that day in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" service pursuant to the requirements of 37 CFR 1.10.[1] The petition is accompanied by a copy of the "Express Mail" mailing label indicating an August 30, 2002 "date-in" and bearing the number "EV 031698009 US." The same number also appears on the application transmittal which itemizes the application papers being mailed on that date.[2] The petition is thus granted.

No fee is owed.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 30, 2002, and for issuance of a corrected filing receipt reflecting that filing date. Thereafter, the application file will be forwarded to the appropriate Technology Center 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] 37 CFR 1.6(a) (Correspondence received in the USPTO is stamped with the date of receipt except . . . (2) Correspondence filed in accordance with §1.10 will be stamped with the date of deposit as "Express Mail" with the USPS).

[2] MPEP section 513 (Aug. 2001) (When a correspondence mailed by USPS "Express Mail" service includes several papers directed to the same application, it may be submitted with a transmittal which itemizes the papers. Merely placing the "Express Mail" mailing label number in one prominent location on such a transmittal is sufficient.).

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CORPORATE PATENT COUNSEL
U.S. PHILIPS CORPORATION
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TARRYTOWN, NY 10591-5190

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APR 0 4 2003

OFFICE OF PETITIONS
ON PETITION

In re Application of
Wang et al.
Application No. 10/232,108
Filed: August 30, 2002
Attorney Docket No. NL020955

This decision concerns the March 24, 2003 petition under 37 CFR 1.10(c), requesting that the above-referenced application be accorded a filing date of August 30, 2002 rather than the presently accorded filing date of August 29, 2002.

03 APR -7 AM 8:47

The petition is **GRANTED**.

Petitioners request a later filing date of August 30, 2002, on the basis that the application was deposited on that day in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" service pursuant to the requirements of 37 CFR 1.10.[1] The petition is accompanied by a copy of the "Express Mail" mailing label indicating an August 30, 2002 "date-in" and bearing the number "EV 031698009 US." The same number also appears on the application transmittal, which itemizes the application papers being mailed on that date.[2] The petition is thus granted.

No fee is owed.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 30, 2002, and for issuance of a corrected filing receipt reflecting that filing date. Thereafter, the application file will be forwarded to the appropriate Technology Center for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions

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1 37 CFR 1.6(a) (Correspondence received in the USPTO is stamped with the date of receipt except . . . (2) Correspondence filed in accordance with §1.10 will be stamped with the date of deposit as "Express Mail" with the USPS).

2 MPEP section 513 (Aug. 2001) (When a correspondence mailed by USPS "Express Mail" service includes several papers directed to the same application, it may be submitted with a transmittal which itemizes the papers. Merely placing the "Express Mail" mailing label number in one prominent location on such a transmittal is sufficient.).

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OFFICE OF PETITIONS
ON PETITION

In re Application of
Wang et al.
Application No. 10/232,108
Filed: August 30, 2002
Attorney Docket No. NL020955

This decision concerns the March 24, 2003 petition under 37 CFR 1.10(c), requesting that the above-referenced application be accorded a filing date of August 30, 2002 rather than the presently accorded filing date of August 29, 2002.

03 APR -7

The petition is **GRANTED**.

Petitioners request a later filing date of August 30, 2002, on the basis that the application was deposited on that day in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" service pursuant to the requirements of 37 CFR 1.10.[1] The petition is accompanied by a copy of the "Express Mail" mailing label indicating an August 30, 2002 "date-in" and bearing the number "EV 031698009 US." The same number also appears on the application transmittal, which itemizes the application papers being mailed on that date.[2] The petition is thus granted.

No fee is owed.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 30, 2002, and for issuance of a corrected filing receipt reflecting that filing date. Thereafter, the application file will be forwarded to the appropriate Technology Center for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions

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[1] 37 CFR 1.6(a) (Correspondence received in the USPTO is stamped with the date of receipt except . . . (2) Correspondence filed in accordance with §1.10 will be stamped with the date of deposit as "Express Mail" with the USPS).

[2] MPEP section 513 (Aug. 2001) (When a correspondence mailed by USPS "Express Mail" service includes several papers directed to the same application, it may be submitted with a transmittal which itemizes the papers. Merely placing the "Express Mail" mailing label number in one prominent location on such a transmittal is sufficient.).

Received from < 914 332 0615 > at 10/14/03 10:20:35 AM [Eastern Daylight Time]

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United States Patent and Trademark Office
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VINSON & ELKINS, LLP
1001 FANNIN STREET/2300 FIRST CITY TOWER
HOUSTON, TX 77002-6760

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FEB 26 2008

In re Application of	:	
BAKER, Matthew J.	:	
Application No. 10/232,135	:	DECISION ON PETITION
Filed: August 29, 2002	:	TO WITHDRAW
Attorney Docket No. **IVGN 456.2 DIV**	:	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 15, 2007.

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

A review of the file record indicates that the power of attorney to **VINSON & ELKINS, LLP** has been revoked by the assignee of the patent application on November 8, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **INVITROGEN CORPORATION**
C/O INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS, MN 55402

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JJGJR.: 05-06

Paper No:__

MYERS BIGEL
SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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MAY 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Shefet	:	DECISION
Application No. 10/232,139	:	
Filing Date: 30 August, 2002	:	
Attorney Docket No.: 9281.15	:	

This is a decision on the petition filed on 14 July, 2004, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the petition was received at the Office of Petitions only at this writing.

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Restriction requirement mailed on 9 September, 2003, with reply due absent an extension of time on or before 9 October, 2003;

- the instant application went abandoned by operation of law after midnight 9 October, 2003;

- the Office mailed the Notice of Abandonment on 28 June, 2004;
- on 14 July, 2004, Petitioner filed the instant petition and alleged the timely filing of a reply in the form of an Election on 30 September, 2003, provided a copy of said reply with a copy of the FAX receipt acknowledgment from the Office dated 30 September, 2003.

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and

---

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

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

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

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

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

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

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

Petitioner appears to have satisfied that construct.

CONCLUSION

Because it appears that Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **granted**, the 28 June, 2004, Notice of Abandonment is **vacated**, and the fees are waived and were not charged.

The instant application is released and forwarded to Technology Center 3600 for further processing in due course.

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

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

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

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

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JJGJR.: 05-06

Paper No: 6

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OFFICE OF PETITIONS

In re Application of	:	
Shefet	:	DECISION
Application No. 10/232,139	:	
Filing Date: 30 August, 2002	:	
Attorney Docket No.: 9281.15	:	

This is a decision on the petition filed on 14 July, 2004, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the petition was received at the Office of Petitions only at this writing.

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Restriction requirement mailed on 9 September, 2003, with reply due absent an extension of time on or before 9 October, 2003;

- the instant application went abandoned by operation of law after midnight 9 October, 2003;

- the Office mailed the Notice of Abandonment on 28 June, 2004;
- on 14 July, 2004, Petitioner filed the instant petition and alleged the timely filing of a reply in the form of an Election on 30 September, 2003, provided a copy of said reply with a copy of the FAX receipt acknowledgment from the Office dated 30 September, 2003.

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

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

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

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

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

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

Petitioner appears to have satisfied that construct.

CONCLUSION

Because it appears that Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **granted**, the 28 June, 2004, Notice of Abandonment is **vacated**, and the fees are waived and were not charged.

The instant application is released and forwarded to Technology Center 3600 for further processing in due course.

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

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

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[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).

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JEFFREY C HOOD
MEYERTONS HOOD KIVLIN KOWERT L& GOETZEL PC
P.O. BOX 398
AUSTIN, TX 78767

Mail Date: 04/21/2010

Applicant	: Robert W. Thurman	: DECISION ON REQUEST FOR
Patent Number	: 7603478	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/232,151	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/30/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1434** 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 : 03/15/10

TO SPE OF : ART UNIT 3623

SUBJECT : Request for Certificate of Correction for Appl. No.: 10232153 Patent No.: 7634423

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: Please apply all changes as they appear consistent with pages 6 & 11 of the Examiner's Amdt of 8/6/2009.

BVBoswell
SPE

3623
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

UNITED STATES PATENT AND TRADEMARK OFFICE

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STERNE, KESSLER, GOLDSTEIN & FOX
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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JUN 2 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Robert Beat	:	
Application No. 10/232,255	:	ON PETITION
Filed: August 29, 2002	:	
Attorney Docket No. 3598/11164-US1	:	

This is a decision on the petition, filed June 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 May 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 the undersigned at (703) 305-8859.

The examiner of Technology Center AU 2819 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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gm

Mailed : 2-7-07

In re Application of	: DECISION ON
Rand A. Murnane	: PETITION
Serial No. 10/232,257	:
Filed: August 29, 2002	:
For: PRODUCING GLASS USING OUTGASSED FRIT	:

This is a decision on the PETITION TO GRANT STATUS OF NEW GROUND OF REJECTION UNDER 37 C.F.R. 1.181(A), filed August 28, 2006.

Applicant asserts that the examiner's answer of 6/27/06 contains a new ground of rejection, specifically a rejection of claim 3 under 35 U.S.C. 102, and requests that this rejection be granted the status of a new ground of rejection.

DECISION

The examiner's answer of June 27, 2006 includes a rejection of claims 1, 2, 4, 5, and 11-14 under 35 U.S.C. 102 and a rejection of claim 3 under 35 U.S.C. 103. While claim 3 is discussed within the body of the 102 rejections at page 7 of the answer, claim 3 is actually rejected only under 103 on pages 11-14 of the answer. The inclusion of claim 3 within the discussion of the rejection of claims 1, 2, 4, 5, and 11-14 appeared inadvertent, and indeed on November 30, 2006, the examiner issued a Notification of Non-Compliant Appeal Brief clarifying that 'the discussion of claim 3 on page 7 of the Answer was the result of typographical error.' Thus the answer does not in fact include a rejection of claim 3 under 35 U.S.C. 102.

Applicant's petition is accordingly **DISMISSED** in view of the examiner's clarification.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

CORNING INCORPORATED
SP-TI-3-1
CORNING NY 14831

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SP-TI-3-1
CORNING NY 14831

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FEB 28 2005

OFFICE OF PETITIONS

In re Application of
Birch et al.
Application No. 10/232,280
Filed: August 29, 2002
Attorney Docket No.: SP02-132
Title of Invention: Systems and Methods for Treating Glass

DECISION ON PETITION

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

This petition is hereby **Dismissed**.

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

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action which was mailed on June 2, 2004. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on September 3, 2004. This decision precedes the mailing of a Notice of Abandonment.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that "the entire delay in filing the required reply from the due date for the reply

until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional"; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required 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). Petitioner must submit a reply to the June 2, 2004 Office Action with the renewed petition.

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 Service Window, Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CORNING INCORPORATED
SP-TI-3-1
CORNING NY 14831

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JUN 22 2005

OFFICE OF PETITIONS

In re Application of Birch et al. Application No. 10/232,280 Filed: August 29, 2002	:	DECISION ON PETITION
Attorney Docket No.: SP02-132	:	
Title of Invention: Systems and Methods for Treating Glass	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 8, 2005 to revive the above-identified application.

This petition is hereby **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 June 2, 2004. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on September 3, 2004. This decision precedes the mailing of a Notice of Abandonment. A petition filed under 37 CFR 1.137(b) was dismissed on February 28, 2005.

Pursuant to petitioner's June 2, 2005 request to withdraw the renewed petition, the above- identified application will not be revived.

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

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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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 08/04/2010

Applicant	: Yoon-Seop Eom	: DECISION ON REQUEST FOR
Patent Number	: 7658462	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/232,314	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/03/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2105** 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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Arent, Fox, Kintner, Plotkin & Kahn
1050 Connecticut Avenue, NW
Suite 400
Washington, DC 20036-5339

In re Patent No. 6,730,250	:	
Issue Date: May 4, 2004	:	
Application No. 10/232,323	:	ON PETITION
Filed: September 3, 2002	:	
Attorney Docket No. 107355-00069	:	

This is a decision on the petition filed August 9, 2004, to waive the rules and accept the correction to delete the second name of the assignee on the front page of the above-identified patent.

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 should be directed to the undersigned at (703) 308-6711. Questions concerning the Certificate of Correction may be directed to the Certificates of Correction Branch at (703) 305-8309.

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

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PO BOX 1022
MINNEAPOLIS MN 55440-1022

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AUG 17 2007

OFFICE OF PETITIONS

In re Application of
Daniel Willis
Application No. 10/232,324
Filed: September 3, 2002
Attorney Docket No. 16113-001001

ON PETITION

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

The petition is DISMISSED.

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 26, 2006. A Notice of Abandonment was mailed on February 21, 2007.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(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 Director may require additional information. See MPEP 711.03(c)(III)(C) and (D).

Petitioner has supplied the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, including the fee of $790, and the petition fee of $1,500; however, the petition lacks an adequate statement of unintentional delay.

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[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

In this regard, the record indicates that petitioner was not responsible for prosecution of the application when the reply necessary to avoid abandonment was due. Therefore, petitioner must provide a statement from the owner of the invention at the time of abandonment explaining why action was not timely taken to prevent the application from becoming abandoned.

Petitioner is advised to send a letter (accompanied by a copy of this decision) to ADSCAPE MEDIA CANADA INC. at 340 MARCH RD., SUITE 301; KANATA, ON, CANADA K2K 2E4, by certified or registered mail (return receipt requested) indicating that the U.S. Patent and Trademark Office (USPTO) is requesting assistance in ascertaining the cause of abandonment of the above-identified application, and that the USPTO is requesting that ADSCAPE MEDIA CANADA INC. provide within a specified period (*e.g.*, one month) a statement setting forth why appropriate action was not timely taken to prevent the application from becoming abandoned. Petitioner is advised that, in the event that ADSCAPE MEDIA CANADA INC. does not provide such a statement, petitioner should submit a copy of such letter and a copy of the return receipt.

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)" as well as the omitted item(s) noted above. 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
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 21 2005

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

In re Application of	:
David Bar-Or et al	:
Serial No.: 10/232,341	: STATUS LETTER
Filed: August 30, 2002	:
Attorney Docket No.: 4172-15DIV1	:

This is in response to applicants' attorneys' request, filed March 8, 2005, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.

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

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,588,632	2003-07-08	10/232,345	2002-08-30	2024-005

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

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Scott A. Schaffer/	Date (YYYY-MM-DD)	2007-10-31
Name	Scott A. Schaffer	Registration Number	38610

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. 6588632
Issue Date: July 8,2003
Application No. 10232345
Filed: August 30,2002
Attorney Docket No. 2024-005

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

This is a decision on the electronic petition, filed October 31,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 31,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

Sequence Controls Inc.
150 Rosamond Street
Carleton Place ON K7C 1V2
CANADA

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FEB 2 2 2007

OFFICE OF PETITIONS

In re Application of
William Harry Kemp
Application No. 10/232,367
Filed: September 3, 2002
Title: ELECTROMECHANICALLY ACTUATED PRESSURE BALANCING AND/OR THERMOSTATIC VALVE SYSTEM

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 23, 2004, and resubmitted on May 26, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to file a timely response to the nonfinal Office Action, mailed September 4, 2003, which set a three-month shortened statutory period for reply. The above-identified application became abandoned on December 5, 2003. On April 28, 2004, the Office mailed a Notice of Abandonment.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the petition fee, and made the proper statement of unintentional delay. Accordingly, the petition is **granted.**

This matter is being referred to Technology Center Art Unit 3744.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

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FEB 19 2004

OFFICE OF PETITIONS

In re Application of Li-Chin Tang Application No. 10/232,378 Filed: September 3, 2002 Attorney Docket No. 2450-0266P	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed January 20, 2004, 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 September 6, 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 May 27, 2004 has been mailed under separate cover.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed in this case on October 22, 2003. However, in view of the nonpublication request filed with the application, the Notice of Allowance and Fee(s) Due mailed in this case did not require the submission of a publication fee. Therefore, in view of the rescinding of the nonpublication request, a Notice of Publication Fee Due is being mailed under separate cover. Petitioner should note that payment of the publication fee is required to be filed within the period set forth in the Notice to avoid abandonment of the application.

This application is being referred to Publishing Division.

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

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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ERIC L. MASCHOFF
WORKMAN NYDEGGER
(F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UTAH 84111

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AUG 2 5 2005

OFFICE OF PETITIONS

In re Application of	:	
James A. Tatum et al.	:	
Application No. 10/232,382	:	DECISION ON PETITION
Filed: September 3, 2002	:	37 CFR 1.137(b)
Attorney Docket No. 15436.438.9	:	

This is a decision on the petition under 37 CFR §1.137(b), filed August 10, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due/Notice of Allowability mailed March 16, 2004, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 17, 2004. No Notice of Abandonment was mailed to the above-identified addressee.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR §1.137(b) in that (1) the issue fee ($1330), publication fee ($300), and substitute declaration at the time of filing the petition; and (2) the petition fee of $1330.00 (for a large entity) at the time of filing the petition have been received. 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 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. Accordingly, the reply to the Notice of Allowance mailed March 16, 2004 is accepted as having been unintentionally delayed.

This matter is being referred to the Office of Patent Publications to be processed into a patent.

Telephone inquiries concerning this decision should be directed to Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 05162005

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MAY 25 2005

OFFICE OF PETITIONS

David Klein
18 Menuha Venahala Street, Rm 27
Rehovot, Israel

In re Application of :
Benjamin Shulman
Application No. 10/232384 :
Filed: 9/3/2002 :
Attorney Docket No. 1206NOV-US :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed 1/17/2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee mailed on 7/13/2004, which set a shortened statutory periof for reply of three months. As no reply was received, this application became abandoned on 10/14/2005.

Petioner has met the requirements for filing a grantable petition under 37 CFR 1.137(b).

This application is being forwarded to the Office of Patent Publication.

Telephone inquiries concerning this decision should be directed to Gene Kim at (571)272-6052, or in his absence, the undersigned at (571)272-3217.

Brian Hearn
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Dekel Patent Ltd.
Beit HaRofim
Room 27
18 Menuha VeNahala Street
Rehovot IL ISRAEL

FAX RECEIVED

MAY 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Beniamin Shulman et al.	:	DECISION
Application No. 10/232,384	:	ON PETITION
Filed: September 3, 2002	:	37 CFR 1.137(b)
Attorney Docket No. 1206NOV-US	:	

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

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3).

The above-identified application became abandoned for failure to timely pay the issue fee. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. See MPEP 711.03(c)(III)(A)(1).

Petitioner has met the requirements for the filing of a grantable petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to Stephen K. Cronin at (571) 272-6051 or, in his absence, to the undersigned at (571) 272-3217.

The application file is being forwarded to the Office of Publications.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

LC

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JAN 12 2010

OFFICE OF PETITIONS

FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK NY 10104-3800

In re Application of	:	
Fablet et al.	:	
Application No. 10/232,405	:	DECISION ON PETITION
Filed: 09/03/2002	:	
Attorney Docket No. 01807.002107	:	

This is a decision on the petition under 37 CFR 1.181 (no fee), filed July 8, 2009, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action mailed November 13, 2008, which set a three-month shortened statutory period for reply. In the absence of a timely filed reply, the application was held abandoned and a Notice of Abandonment was mailed on June 9, 2009.

Petitioner asserts that final Office action dated November 13, 2008, was not received.

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 final Office action was not in fact received.

As stated in Section 711.03(c)(I)(A) of the Manual for Patent Examining Procedure:

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure

to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

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

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner described the docketing system and the procedures for docketing due dates. The practitioner submitted a copy of a master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action. Furthermore, the practitioner attested to the fact that a search of these records indicated that the final Office action was not received at the correspondence address of record. Accordingly, petitioner presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. The holding of abandonment is hereby withdrawn. No petition fee is required.

Technology Center Art Unit 2451 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 of November 13, 2008. The three-month shortened statutory period to reply to the final Office action will be set to run from the re-mailing date of the 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

SUPERVISOR, PAENT PROSECUTION SERVICES
PIPER RUDNICK LLP
1200 NINETEENTH STREET, N.W.
WASHINGTON, DC 20036-2412

COPY MAILED

JUN 0 9 2008

In re Application of	:	
Pingfan Rao, et al.	:	
Application No. 10/232,410	:	DECISION ON PETITION
Filed: September 3, 2002	:	TO WITHDRAW
Attorney Docket No. 3803-001-27	:	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 20, 2007.

The request is **APPROVED**.

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

The request was signed by James M. Heintz on behalf of all attorneys of record who are associated with customer No. 24510.

All attorneys/agents associated with the Customer Number 24510 have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

The application became abandoned for failure to timely file a response to the final Office action mailed June 12, 2007.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: PINGFAN RAO, PHD
FUZHOU UNIVERSITY,
INSTITUTE OF BIOTECHNOLOGY
523 GONGYE ROAD
FUZHOU, FUJIAN 350002

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
10/232,410	09/03/2002	Pingfan Rao	3803-001-27

CONFIRMATION NO. 6293

Supervisor, Patent Prosecution Services
PIPER RUDNICK LLP
1200 Nineteenth Street, N.W.
Washington, DC 20036-2412

POWER OF ATTORNEY NOTICE

OC000000030342784

Date Mailed: 06/06/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/20/2007.

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

/amwise/

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

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JJGJR.: 09-04

Paper No: __

HOWREY SIMON
ARNOLD & WHITE LLP
750 BERING DRIVE
HOUSTON TX 77057

COPY MAILED

SEP 24 2004

OFFICE OF PETITIONS

In re Application of
Engardio, et al :
Application No. 10/232,415 :
Filing Date: 30 August, 2002
Attorney Docket No. 06472.0039.NPUS00 :

This is a decision on the petition filed on 30 August, 2004, to revive the instant application 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

NOTE: A call was made to Petitioner on 24 September, 2004, to note that there is no indication in the record that Petitioner was empowered to prosecute the instant application. A Change of Address has been filed, but no Revocation/Power of Attorney. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance and Fees Due mailed 7 April, 2004, with reply due under a non-extendable deadline on or before 7 July, 2004;
- Notice of Abandonment was mailed on 9 August, 2004;
- with the instant petition (with fee), Petitioner submitted the Issue and Publication Fees and made the statement of unintentional delay.

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

---

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

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

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

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

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

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

Allegations as to Unintentional Delay

A grantable petition under 37 C.F.R. §1.137(b) requires a petition, fee, statement of unintentional delay, reply, and a terminal disclaimer and fee if appropriate. Petitioner has satisfied those requirements.

CONCLUSION

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

The instant file is forwarded to Publications Branch to be processed into a patent.

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

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

cc:
RICHARD SCHNURR
ICE MILLER
ONE AMERICAN SQUARE/31ST. FLOOR
INDIANAPOLIS, IN 46282-0200

[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.

OIPE JC106
APR 2 9 2004
PATENT & TRADEMARK OFFICE

10/232,425 1722

PTO/SB/83 (09-03)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Application Number	20040043097
Filing Date	August 30, 2002
First Named Inventor	Bouldin, Floyd E.
~~Art Unit~~ Serial No.	232425
Examiner Name	
Attorney Docket Number	

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

Approved
JMStone
Jacqueline M. Stone, Director
Technology Center 1700
AUG 19 2004

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: Please see the attached letter.

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☑ Change the correspondence address and direct all future correspondence to:

☐ Customer Number: ☐

OR

☑ Firm or Individual Name	Mr. C. Douglas Williams				
Address	Bouldin Corporation				
Address	Suite 160, 1200 Mountain Creek Road				
City	Chattanooga	State	TN	Zip	37405
Country	United States of America				
Telephone	423-876-1883	Fax	423-876-1840		

Name	Rick R. Wascher		
Signature	Rick R Wascher	Registration No.	35,404
Date	April 26, 2004	Telephone No.	865-218-2478

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

OIPE JC106
APR 2 9 2004
PATENT & TRADEMARK OFFICE

Rick R. Wascher
12700 Ackley Circle
Knoxville, TN
37922
865-671-0944

April 26, 2004

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

Re: Application No.: 20040043097

Dear Commissioner:

I am providing this letter as a supplement to my request to withdraw as Attorney of Record in the U.S. Patent Application identified above and on the attached form PTO/SB/83.

The reason for this request is: I left the employ of the assignee of record (the "company") back in February of 2003 and have had no contact with them or the patent files since that time.

I am surprised I am still listed as the attorney of record on these cases. I was told replacement counsel would be hired immediately and a power of attorney revoking my status as Attorney of Record would be duly and timely filed.

Please remove me as Attorney of Record and change the correspondence address to: Mr. C. Douglas Williams, Bouldin Corporation, Suite 160, 1200 Mountain Creek Road, Chattanooga, TN 37405.

Sincerely,

Rick R. Wascher, Reg. No. 35, 404

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 4

John K. Abokhair
ROBERTS ABOKHAIR & MARDULA, L.L.C.
11800 Sunrise Valley Drive, Suite 1000
Reston, VA 20191-5302

MAILED

FEB 23 2004

Technology Center 2100

In re Application of:
John Hamilton
Application No. 10/232,427
Filed: August 30, 2002
For: A SYSTEM AND METHOD FOR PROTECTING THE CONTENT OF DIGITAL CINEMA PRODUCTS

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed February 12, 2004.

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

The request is signed by John K. Abokhair alone and does not contain a clear indication that Mr. Abokhair is authorized to sign on behalf of the other attorneys of record and is signing on behalf of the other attorneys of record. Furthermore, there is no indication that Applicant has been notified of the request for withdrawal.

Accordingly, the request is **DENIED**.

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

James R. Matthews

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

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. 3

John K. Abokhair
ROBERTS ABOKHAIR & MARDULA, L.L.C.
11800 Sunrise Valley Drive, Suite 1000
Reston, VA 20191-5302

MAILED

FEB 23 2004

Technology Center 2100

In re Application of:
John Hamilton
Application No. 10/232,435
Filed: August 30, 2002
For: NON-ALGEBRAIC METHOD OF ENCRYPTION AND DECRYPTION

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed February 12, 2004.

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

The request is signed by John K. Abokhair alone and does not contain a clear indication that Mr. Abokhair is authorized to sign on behalf of the other attorneys of record and is signing on behalf of the other attorneys of record. Furthermore, there is no indication that Applicant has been notified of the request for withdrawal.

Accordingly, the request is **DENIED**.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

MAIL

MAR 17 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ROBERTS ABOKHAIR & MARDULA
SUITE 1000
11800 SUNRISE VALLEY DRIVE
RESTON VA 20191

In re Application of
Jon Hamilton

Application No. 10/232,470
Filed: August 30, 2002
For: **SYSTEM AND METHOD FOR IMPRINTING A DIGITAL IMAGE WITH AN IDENTIFIER USING BLACK METAMERS**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as agent(s)/attorney(s) of record received on February 12, 2004.

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

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

All attorneys/agents of record are withdrawn.

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

The file is being returned to TC 2600 Central Files to await an examination in appropriate turn.

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

Cc: Jon Hamilton
6321 Lakewood Drive
Austin, Texas 78731

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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MALLINCKRODT & MALLINCKRODT
10 EXCHANGE PLACE, SUITE 510
SALT LAKE CITY, UT 84111

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DEC 29 2004

OFFICE OF PETITIONS

In re Application of	:	
Barry O. Stokes et al	:	
Application No. 10/232,474	:	ON PETITION
Filed: August 29, 2002	:	
Attorney Docket No. 011-1-013	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 15, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue/publication fee in a timely manner in reply to the Notice of Allowance mailed July 30, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 2, 2004.

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

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

This matter is being referred to the 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
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1/25/05

In re Application of	:	
Larry L. Kinn	:	NOTICE OF WITHDRAWAL
Serial No. 10/232,480	:	FROM ISSUE
Filed: August 30, 2002	:	UNDER 37 CFR 1.313(b)
For: DURABLE HYDROPHILIC NONWOVEN MAT:		

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 Terrel Morris at (571) 272-1478.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Ostrager Chong Flaherty & Broitman PC
250 Park Avenue, Suite 825
New York, NY 10177

cc: Allowed Files—Pk3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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SAWYER LAW GROUP, LLP
2465 E. Bayshore Road, Suite No. 406
PALO ALTO, CA 94303

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JUL 23 2008

In re Application of	:	
Peter Geoffrey Jones	:	
Application No. 10/232,488	:	DECISION ON PETITION
Filed: August 30, 2002	:	
Attorney Docket No. M-12845US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on December 10, 2007, to revive the above-identified application.

The application became abandoned for failure to reply to the non-final Office action mailed on January 3, 2006. A Notice of Abandonment was mailed on August 9, 2006.

The Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address filed on June 14, 2007, was erroneously accepted by the Office. In this regard, compliance with 37 CFR 3.73(b) has not been satisfied, in that the reel and frame number of the documentary evidence of the chain of title from the original owners to the current assignee was not provided[1]. Therefore, in order to perfect the power of attorney filed June 14, 2007, full compliance with 37 CFR 3.73(b) must be satisfied.

On the other hand, 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 Kevin M. Vivian is authorized to represent the particular party in whose behalf he acts.

Additionally, 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

[1] See Part B of the Statement under 37 CFR 3.73(b) filed on June 14, 2007.

certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2154 for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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CNH AMERICA LLC
INTELLECTUAL PROPERTY LAW DEPARTMENT
700 STATE STREET
RACINE WI 53404

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MAR 0 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Zacharias et al.	:	
Application No. 10/232,533	:	ON PETITION
Filed: September 3, 2002	:	
Attorney Docket No. FC0069	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 9, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020.00 extension of time fee submitted with the petition on February 9, 2006, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

This matter is being referred to Technology Center 3600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Tra4demark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JJGJR.: 08-06

Paper No: __

CYTEC INDUSTRIES INC.
1937 WEST MAIN STREET
P.O. BOX 60
STAMFORD CT 06904-0060

COPY MAILED

AUG 1 7 2006

OFFICE OF PETITIONS

In re Application of :
Kohli, et al. : DECISION
Application No.: 10/232,538 :
Filing Date: 30 August, 2002 :
Attorney Docket No. 097018-01 :

This is a decision on the petition filed on 19 September, 2005, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181.

The Office regrets the delay in addressing the matter, however, the instant petition was received by the Attorneys in the Office of Petitions only at this writing.

NOTE:

Monitoring of the status of applications on Private PAIR and charges or lack thereof to one's deposit account can inform one's management of application responses and provide an indication when mailings of Office actions should be expected and/or if transactions have occurred.

Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181 because regulatory requirements require the filing of such a petition within two (2) months of the act complained of.

Petitioner appears not to have made inquiry as to status since the filing of the instant petition.

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 3 January, 2005, with reply due absent an extension of time on or before Monday, 4 April, 2005;
- the instant application went abandoned by operation of law after midnight 3 April, 2005;
- the Office mailed the Notice of Abandonment on 23 August, 2005;
- on 19 September, 2005, Petitioner filed the instant petition, averred the timely filing of a reply in the form of an amendment on 7 April, 2005, over a certificate of mailing, and provided documentary support for the averment and a copy of the reply in question.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and
(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —
(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

Notably, Petitioner appears not to have inquired about the status of this matter since the filing of the instant petition eleven (11) months ago.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

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

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(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[2] 35 U.S.C. §133 provides:

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

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

[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).

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. In determining if a delay was unavoidable, decisions on reviving abandoned applications have adopted the standard of the reasonably prudent person acting in their most important business matters.[7]

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

Withdrawal of the
Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[9]

The commentary at MPEP §711.03(c)[10] provides further guidance to the Petitioner, and the

---

[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] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

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

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

[10] The commentary at MPEP §711.03(c) provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based

regulations at . And the regulations 37 C.F.R. §1.181 require that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the showing and timeliness requirements described above.

CONCLUSION

Because it appears that Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **granted**, and the 23 August, 2005, Notice of Abandonment is **vacated**.

The application is released to Technology Center 1700 for further processing in due course.

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on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

* * *

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[11]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[11] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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300 WEST 6TH STREET
SUITE 2100
AUSTIN, TX 78701

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JUN 16 2005

OFFICE OF PETITIONS

In re Application of	:
Mitchel E. Wright et al	:
Application No. 10/232,552	: DECISION ON PETITIONS
Filed: August 29, 2002	:
Attorney Docket No. P98-2069-1	:

This is a decision on the petition under 37 CFR 1.137(b), filed June 7, 2005, to revive the above-identified application. This is also a decision on the petition to withdraw this application from issue, which, for the reasons stated below, is being treated as a petition to defer issuance pursuant to the provisions of 37 CFR 1.314.

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

The petition under 37 CFR 1.314 is **GRANTED**

DISCUSSION OF PETITION UNDER 37 CFR 1.314

Petitioner requests that this application be withdrawn from issue in order for the examiner to consider the Information Disclosure Statement (IDS) submitted of even date with this petition, which IDS is stated to have been previously filed on August 28, 2003. However, it is unnecessary to withdraw this application from issue at this time in order to have the examiner consider the IDS. Accordingly, the petition is being treated as a petition under 37 CFR 1.314 to defer issuance. **However, if necessary, the Director of Technology Center 2817 has the authority, pursuant to MPEP 1002.02(c)(19), to withdraw this application from issue.**

Issuance will be deferred for a period of one month from the mail date of this decision. At the end of this period, this matter will be referred to the Publishing Division to be processed into a patent.

If an additional deferral period is required, another petition and fee should be promptly submitted. The petition must include a showing of extraordinary circumstances; MPEP 1306.01.

DISCUSSION OF PETITION UNDER 37 CFR 1.137(b)

This application became abandoned for failure to timely pay the issue and publication fees on or before January 3, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed October 1, 2004. A Notice of Abandonment was mailed on February 22, 2005.

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 and publication fees or any outstanding balance thereof. See MPEP 711.03(c)(III)(A)(1). Therefore, in view of the authorization contained in the petition to charge any additional fees due, the $1,400 issue fee and the $300 publication fee will be charged to Deposit Account No. 08-2025.

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.

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

There is no indication that petitioner has submitted the Part B-Fee(s) Transmittal form. Accordingly, if petitioner desires to

have the information normally found thereon printed on the patent, the Part B - Fee(s) Transmittal form should be completed and returned to Mail Stop ISSUE FEE, Commissioner for Patents, P O Box 1450, Alexandria, VA 22313-1450, or Fax to (703) 746-7000, within ONE MONTH from the mail date of this decision.

The revocation and appointment of new attorney submitted of even date is not acceptable since it fails to satisfy 37 CFR 3.73(b). Accordingly, in view of the nonacceptance of the power of attorney, a courtesy copy of this decision is being mailed to the customer number address noted on the power of attorney. However, all future correspondence will be mailed to the address of record until such time as an acceptable power of attorney is received. Petitioner may find a 3.73(b) statement form on the USPTO website at: http://www.uspto.gov/web/forms/index.html., form number PTO/SB/96.

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

This matter is being referred to Technology Center AU 2817 for consideration of the Information Disclosure Statement submitted of even date.

Frances Hicks

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

cc:

HEWLETT PACKARD COMPANY
P O BOX 272400
3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

UNITED STATES PATENT AND TRADEMARK OFFICE

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 06/07/2010

Applicant	: Samir Khalil Khazaka	: DECISION ON REQUEST FOR
Patent Number	: 7627354	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/232,565	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/30/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **368** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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COMMISSIONER FOR PATENTS
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Daniel E. Ovanezian
Blakely, Sokoloff, Taylor & Zafman LLP
12400 Wilshire Boulevard, Seventh Floor
Los Angeles, CA 90025-1026

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JAN 18 2005
OFFICE OF PETITIONS

In re Application of	:	
Sandeep Khanna, et al.	:	
Application No. 10/232,576	:	ON PETITION
Filed: August 30, 2002	:	
Attorney Docket No. 2489.P040	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 5, 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 2100 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

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NEPEAN, ONTARIO K2G 5X3
CANADA

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OFFICE OF PETITIONS

In re Application of :
Willis :
Application No. 10/232,602 : ON PETITION
Filed: September 3, 2002 :
Attorney Docket No. 165-05 US//16113-686001/ GP-1090-04-US :
For: GAMING SYSTEM EMULATING A SET TOP BOX

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

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

This application became abandoned for failure to timely respond to the final Office action mailed May 31, 2006, which set an extendable three month period for reply. No extensions of time or reply were received. Accordingly, this application became abandoned on September 1, 2006. A Notice of Abandonment was mailed on December 15, 2006.

Applicant has submitted a RCE and $790.00 fee and amendment in reply to the May 31, 2006 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the May 31, 2006 final Office action, and the $1,500.00 petition fee.

Regarding the statement of unintentional delay: 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. Further, the statement of unintentional delay does not comply with the provisions of 37 CFR 1.137(b)(3). Nevertheless, the statement presented will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition to pursuant to 37 CFR 1.137(b), was unintentional." If this is an incorrect interpretation in view of the new rules, practitioner is required to provide a statement to that effect. 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.

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

After the mailing of this decision the application will be forwarded to Technology Center AU 3714 for consideration of the RCE and amendment filed on May 1, 2007.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

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SOUTHFIELD, MI 48075

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OFFICE OF PETITIONS

In re Application of
Fell et al.
Application No. 10/232,608
Filed: August 30, 2002
Title: A PROPORTIONED SURGICALLY IMPLANTABLE KNEE PROSTHESIS

DECISION ON PETITION

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.78(a)(3) TO ACCEPT UNINTENTIONALLY DELAYED CLAIM OF PRIORITY UNDER 35 U.S.C. § 120," filed August 19, 2004.

The petition is **granted**.

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

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

The instant nonprovisional application was filed on July 12, 2002. A reference was included in an amendment to the first

sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii). This amendment was filed on March 25, 2004. The surcharge under § 1.17(t) was included on petition filed August 19, 2004. Applicants state 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 instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed application was submitted during the pendency of the instant nonprovisional application. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

This application is being forwarded to Technology Center Art Unit 3738 for consideration by the Examiner of applicant's claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (2) for the benefit of priority to the prior-filed nonprovisional applications.

Telephone inquiries concerning this matter should be directed to Senior Petitions Attorney Nancy Johnson at (571) 272-3219.

Charles A. Pearson
Director
Office of Petitions

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WASHINGTON, D.C. 20005-3934

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OFFICE OF PETITIONS

In re Application of
Franco De Flaviis
Application No. 10/232,617
Filed: September 3, 2002
Attorney Docket No. 1875.3330000

ON PETITION

This is a decision on the petition, filed May 4, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 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 Irvin Dingle at (703) 306-5684.

The file will be forwarded to Technology Center AU 2817 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

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

DEC 18 2002

#5

FOLEY & LARDNER
P.O. BOX 80278
SAN DIEGO CA 92138-0278

In re Application of	:
Kathleen G. Palma	:
Serial No.: 10/232,628	: PETITION TO MAKE SPECIAL
Filed: August 29, 2002	:
Attorney Docket No.: 042644-0501	:

This is in response to applicants' petition filed November 14, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on prospective manufacture.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, I. 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) 308-7922.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 07 2006

Bernard Malina, Esq.
Malina & Associates, P.C.
Suite 501
60 East 42nd Street
NEW YORK NY 10165

In re Application of	:	
M. Marc Leichtung	:	
Serial No.: 10/232,641	:	DECISION ON PETITION
Filed: September 22, 2005	:	
For: Dental Appliance	:	

This is in response to the petition applicant filed on November 21 2005 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

Should there be any questions with regard to this letter please contact Frederick Schmidt by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (751) 273-8300.

Frederick R. Schmidt

Frederick R. Schmidt
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Todd S. Parkhurst
Holland & Knight LLP
131 S. Dearborn, 30th Floor
Chicago IL 60603

COPY MAILED

DEC 2 0 2004

OFFICE OF PETITIONS

In re Application of Randall Fincke Application No. 10/232,645 Filed: August 30, 2002 For: Automated External Defibrillator (AED) System Old Attorney Docket No: New: 093805.00001 Pub. No.: US 20030167075 A1 Pub. Date: September 3, 2003	Decision on Petition

This is in response to the revocation and substitute power of attorney. The power of attorney to Todd S. Parkhurst et al. has been accepted. The power of attorney to Nicholas Pandiscio, et al. has been revoked.

The papers filed by Access CardioSystems, Inc. on July 26, 2004 are noted. The attorney for Access CardioSystems, Inc. states that he filed the application for patent with instructions from Access CardioSystems, Inc. Furthermore, the papers state that the inventor named in the application was employed by Access CardioSystems, but that the inventor's employment was terminated on December 31, 2003. The papers requests copies of any filings by the inventor, and that Office processing of a revocation of power of attorney filed by the inventor be stayed, or if taken, rescinded, pending a ruling by the Massachusetts Superior Court.

The Office discourages combined declarations and powers of attorney precisely because of applications such as this. Instead of having a combined declaration and power of attorney, the Office declaration form and power of attorney are separate documents in order to have the power of attorney signed by an assignee, if appropriate. Furthermore, where a combined declaration and power of attorney document is used, the Office encourages the document to contain an explicit authorization for someone other than the inventor to direct prosecution of the application, if the inventors are not going to direct prosecution. See Revision of Power of Attorney and Assignment Practice, 69 Fed. Reg. 29865, 29872 (May 26, 2004), 1283 Off. Gaz. Patent Office 148 (June 22, 2004), quoting from Responsibilities of Practitioners Representing Clients in Proceedings Before the Patent and Trademark Office, 1091 Off. Gaz. Patent Office 26

(May 25, 1988).

Even more desirable than having an express authorization is for the employer to have an assignment from the employee to the employer signed at the same time as the declaration, and subsequently recorded. Then, the assignee can appoint the power of attorney, and not risk the power of attorney granted by the inventor being revoked by the inventor, because a power of attorney granted by an assignee cannot be revoked by the inventor.

Access CardioSystems, Inc. may be entitled to ownership of the application, if Access CardioSystems can show that the "Work for Hire Doctrine" or a contract with the inventor entitles Access CardioSystems to such ownership. Until a decision on ownership is made, the Office will, as directed by the Superior Court of the Commonwealth of Massachusetts, permit Mr. Todd S. Parkhurst to remain as attorney of record.

Questions or request for reconsideration of this decision, should be addressed as follows:

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

By facsimile: (703) 872-9306

Inquires concerning this communication should be directed to Mark Polutta at (571) 272-7709.

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

cc: Pandiscio and Pandiscio
470 Totten Pond Road
Waltham MA 02154

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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APR 27 2010

OFFICE OF PETITIONS

Todd S. Parkhurst
Holland & Knight LLP
131 S. Dearborn, 30th Floor
Chicago IL 60603

In re Application of :
Fincke :
Application No. 10/232,645 : ON PETITION
Filed: August 30, 2002 :
Attorney Docket No. ACCESS-2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 26, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned October 5, 2007 for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 4, 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). Notice of Abandonment was mailed February 14, 2008.

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

The instant petition fails to satisfy requirement (3).

As to item (3), there are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

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

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

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

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

As to Period (1):

A petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional. Further, the Director may require additional information where there is a question whether the entire delay in question 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). In view of the inordinate delay (almost three years) in resuming prosecution, there is a question whether the entire delay was unintentional.

Any renewed petition must establish that the entire delay, from the time that a reply was due until the filing of a grantable petition, was unintentional. Petitioners may wish to identify the party having the right to reply to avoid abandonment who in turn may 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 can explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, if practitioner was counsel of record at the time of abandonment, practitioner should explain why this application became abandoned. Petitioner may wish to submit supporting documentation to establish that the entire delay has been unintentional as well as statements of fact from those having first hand knowledge of the facts and circumstances surrounding the delay at issue. 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).

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 view thereof, 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 37CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

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 appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If practitioner 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 practitioner. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

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

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

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: MARK PANDISCIO
Pandiscio and Pandiscio PC
470 Totten Pond Rd
Waltham, MA 02451

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 2, 2006

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/232650 Patent No.: 7,099,406 B2

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

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

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

Elisha Evans
Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE — 2611 Art Unit

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, PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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OCT 06 2004

OFFICE OF PETITIONS

In re Application of :
Shigeru Kusunoki :
Application No. 10/232,703 : DECISION GRANTING PETITION
Filed: September 3, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 226780US-2-DIV :

This is a decision on the petition, filed October 5, 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 29, 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 2811 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON, DC 20005-1209

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JUN 04 2008

OFFICE OF PETITIONS

In re Application of :
Ann Sundstrom, et al. :
Application No. 10/232,726 : ON PETITION
Filed: September 3, 2002 :
Attorney Docket No. 024445-109 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed January 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

A review of the record discloses that this application became abandoned since a Request for Continuing Examination (RCE) was filed without an appropriate submission in an application that has no allowed claims. A Notice of Abandonment was mailed on January 11, 2008. In response, on January 24, 2008, the present petition was filed, requesting that the arguments in the June 19, 2007 Appeal Brief be considered along with the references filed in the Information Disclosure Statement dated October 25, 2007 in order to continue prosecution.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply in the form of a Request for Continued Examination (RCE), including the fee of $810 and a submission required by 37 CFR 1.114; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay

This application is being referred to Technology Center AU 1795 for further processing of the RCE and for appropriate action by the Examiner in the normal course of business on the response submitted in accordance with 37 CFR 1.114.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

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APR 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Chung-Che Tsai et al :
Application No. 10/232,729 :
Filed: September 3, 2002 :
Attorney Docket No. TSA1108

NOTICE

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

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

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

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

This file is being forwarded to the Files Repository.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE FARRELL LAW FIRM, P.C.
333 EARLE OVINGTON BOULEVARD
SUITE 701
UNIONDALE, NY 11553

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JAN 30 2009

OFFICE OF PETITIONS

In re Application of Youn-Sun Kim, et al. Application No. 10/232,733 Filed: August 29, 2002 Attorney Docket No. 678-0931	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed November 19, 2008.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the publication fee on or before February 14, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed November 14, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on February 15, 2008. A Notice of Abandonment was subsequently mailed on April 28, 2008. On November 19, 2008, 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 $300 publication fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management 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 as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

AUG 18 2008

In re Application of	:	
DERVIEUX, Thierry et al.	:	
Application No. 10/232,760	:	DECISION ON PETITION
Filed: August 30, 2002	:	TO WITHDRAW
Attorney Docket No. **026328-004900US**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 23, 2008.

The request is **NOT APPROVED** because it 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 June 19, 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 Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **COOLEY GODWARD KRONISH LLP**
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON DC 20001

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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COOLEY GODWARD KRONISH LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON DC 20001

MAILED

MAR 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Dervieux et al.	:	DECISION ON
Patent Number: 7,563,590	:	APPLICATION FOR
Issue Date: 07/21/2009	:	PATENT TERM ADJUSTMENT
Application No. 10/232760	:	and
Attorney Docket Number:	:	NOTICE OF INTENT TO ISSUE
CYPR-030/00US 093330-2149	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on September 21, 2009, which is being treated as a petition under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred seventy-eight (878) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on August 31, 2005 and ends on July 8, 2007, the day before the RCE was filed, and is 677 days (not 678) days. See, 35 U.S.C. 154(b)(1)(B)(i).

As such, the patent term adjustment is 877, not 878 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 Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred seventy-seven (877) 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 Attorney Derek Woods, at (571) 272-3232.

/ALESIA M. BROWN/

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

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,563,590 B2

DATED : **July 21, 2009**

INVENTOR(S) : Dervieux 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 363 days.

Delete the phrase "by 363 days" and insert – by 877 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

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MAY 05 2003

OFFICE OF PETITIONS

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

In re Application of Erickson, et al. Application No. 10/232,772 Filed: August 30, 2002 Atty. Dkt. No.: PSIX-P01-008 Title: DATA SOURCE PRIVACY SCREENING SYSTEMS AND METHODS	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(a), filed March 7, 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 30, 2002 without an executed oath or declaration and naming Lars Carl Erickson, Agneta Breitenstein, and Don Pettini as joint inventors. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed October 4, 2002 requiring, among other items, an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 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 items (1) and (2).

Petitioner lacks item (1) set forth above. The petition lacks sufficiently supportive evidence that the non-signing inventors were presented with the application papers (specification, claims, drawings, and oath or declaration), thereafter refused to sign the oath or declaration.

Petitioner is reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that *bona fide* effort has been made to present a copy of the application papers (**specification, claims, drawings, and oath or declaration**) to the non-signing inventors. Petitioner has

failed to establish that both inventors received the application papers and thereafter refused to execute the declaration.

While the petition indicates a declaration was sent to inventor Lars Carl Erickson, there is no indication that the inventor received the complete application papers. It is unclear from the material submitted by petitioner when the employment of inventor Lars Carl Erickson by the assignee company ended. Hence, it cannot be ascertained from the letter to inventor Lars Carl Erickson referencing the enclosure of the application papers whether the inventor was in fact still employed with the assignee company and thus received the letter and the enclosures at the assignee company.

Moreover, petitioner has provided no evidence that would establish inventor Agneta Breitenstein was ever presented with the application papers.

Any renewed petition must be accompanied by evidence that the inventors or the inventors' legal representative received the application papers and thereafter failed to respond to requests to execute the declaration. Petitioner may wish to provide the Office with copies of letters sent to the inventors or the inventors' legal representative indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventors or the inventors' legal representative receive the application papers and requests to execute the oath or declaration are refused or ignored, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition.

As to item (2), an acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The declaration submitted herewith is not acceptable as it fails to set forth the citizenship of the named inventors as required under 37 CFR 1.63(a)(3). Moreover, the declaration contains alterations that have not been initialed and/or dated as is required by 37 CFR 1.52(c). The signature block of the non-signing inventors should remain unexecuted. Any renewed petition must be accompanied by an properly executed oath or declaration in accordance with 37 CFR 1.63.

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

Application No. 10/232,772

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

PrivaSource, Inc.

950 Winter Street, Suite 1700
Waltham, MA 02451
Main: 781-684-8604
Fax: 781-684-8095
www.privasource.com

Date 6/30/03

To: Alesia M. Brown
Office of Petitions

Fax: (703) 308-6916

From: Miles Coverdale
PrivaSource, Inc.
(781) 684-8207

Pages: 18
(Including Cover)

FAX RECEIVED
JUN 30 2003
PETITIONS OFFICE

Re: Request for Reconsideration of Petition

Attorney Docket No.: PSIX-P01-008

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Erickson et al

Application No./Patent No.: 10/232772 Filed/Issue Date: August 30, 2002

Entitled: DATABASE SOURCE PRIVACY SCREENING SYSTEMS AND METHODS

PrivaSource, Inc. (Name of Assignee), a Corporation (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. [x] the assignee of the entire right, title, and interest; or
2. [ ] an assignee of less than the entire right, title and interest.
   The extent (by, percentage) of its ownership interest is _____ %

in the patent application/patent identified above by virtue of either:

A. [x] An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 013753, Frame 0832, or for which a copy thereof is attached.

OR

B. [ ] A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: _____ To: _____
   The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
2. From: _____ To: _____
   The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
3. From: _____ To: _____
   The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

[ ] Additional documents in the chain of title are listed on a supplemental sheet.

[ ] Copies of assignments or other documents in the chain of title are attached.
[**NOTE**: A separate copy (*i.e.*, the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

6/30/03
Date

Miles Coverdale
Typed or printed name

Miles Coverdale
Signature

Authorized Signer for Assignee
Title

PrivaSource, Inc.
950 Winter Street, Suite 1700
Waltham, MA 02451

June 30, 2003

By fax on 6/30/03
Originals by mail

Ms. Alesia M. Brown
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy
United States Patent and Trademark Office
Washington, D.C. 20231

FAX RECEIVED
JUN 30 2003
PETITIONS OFFICE

Re: Request for Reconsideration of Petition Under 37 CFR 1.47(a)
U.S. Patent Application Numbers 10/232,772 and 10/232,773

Dear Ms. Brown:

Enclosed are the Declaration for Patent Application forms for the above patent applications. We now have the signatures of all of the inventors for both of the applications. Please reconsider both petitions.

Also enclosed are Revocation of Power of Attorney forms. Please direct future correspondence to the undersigned at the indicated address. Thank you.

Sincerely,

Miles Coverdale

Miles Coverdale
Chief Financial Officer

Attorney Docket No.: PSIX-P01-008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DECLARATION FOR PATENT APPLICATION

FAX RECEIVED
JUN 3 0 2003
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As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled:

DATA SOURCE PRIVACY SCREENING SYSTEMS AND METHODS

the specification of which was filed on August 30, 2002 as Application No. 10/232,772.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by an amendment, if any, specifically referred to herein.

I acknowledge the duty to disclose all information known to me that is material to patentability in accordance with Title 37, Code of Federal Regulations, § 1.56.

FOREIGN PRIORITY CLAIM

I hereby claim foreign priority benefits under Title 35, United States Code § 119(a)-(d) of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

[x] no such foreign applications have been filed

[ ] such foreign application have been filed as follows:

Attorney Docket No.: PSIX-P01-008

EARLIEST FOREIGN APPLICATION(S), IF ANY FILED WITHIN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION

Application Number	Country	Date of Filing	Priority Claimed Under 35 USC 119
			___ Yes No ___
			___ Yes No ___
			___ Yes No ___

ALL FOREIGN APPLICATION(S), IF ANY FILED MORE THAN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION

Application Number	Country	Date of Filing

CLAIM FOR BENEFIT OF EARLIER U.S. PROVISIONAL APPLICATIONS

I hereby claim priority benefits under Title 35, United States Code §119(e), of any United States provisional patent application(s) listed below:

☐ no such U.S. provisional applications have been filed.

☒ such U.S. provisional application have been filed as follows:

Application Number	Date of Filing	Priority Claimed Under 35 USC 119
60/315,751	August 30, 2001	x Yes No
60/315,753	August 30, 2001	x Yes No
60/315,754	August 30, 2001	x Yes No
60/315,755	August 30, 2001	x Yes No
60/335,787	December 5, 2001	x Yes No

Attorney Docket No.: PSIX-P01-008

CLAIM FOR BENEFIT OF EARLIER U.S./PCT APPLICATION(S)

I hereby claim the benefit under Title 35, United States Code, §120 of the United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose all information that is material to patentability in accordance with Title 37, Code of Federal Regulations, §1.56 which became available to me between the filing date of the prior application and the national or PCT international filing date of this application:

[x] no such U.S./PCT applications have been filed.

[ ] such U.S./PCT application have been filed as follows:

Application Number	Date of Filing	Status (Patented/Pending/Abandoned)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Please mail all correspondence to the Assignee, whose address is:

PrivaSource, Inc.
950 Winter Street, Suite 1700
Waltham, Massachusetts 02451

The Assignee may also be contacted by telephone at 781-684-8604 or by facsimile at 781-684-8095.

Attorney Docket No.: PSIX-P01-008

Full name of sole or first inventor Dr. Lars Carl Erickson	
Sole or first inventor's signature	Date
Residence Newtonville, MA	
Citizenship	
Mailing Address 54 Oakwood Rd. Newtonville, Massachusetts 02460	

Full name of second inventor, if any Agneta Breitenstein	
Second inventor's signature	Date 6/25/03
Residence Jamaica Plain, Massachusetts	
Citizenship	
Mailing Address 124 Williams Street, #2 Jamaica Plain, Massachusetts 02130	

Full name of third inventor, if any Don Pettini	
Third inventor's signature	Date 6/24/03
Residence Andover, Massachusetts	
Citizenship	
Mailing Address 6 Russett Lane Andover, Massachusetts 01810	

Attorney Docket No.: PSIX-P01-008

Full name of sole or first inventor Dr. Lars Carl Erickson	
Sole or first inventor's signature	Date 6.27.03
Residence Newtonville, MA	
Citizenship	
Mailing Address 54 Oakwood Rd. Newtonville, Massachusetts 02460	

Full name of second inventor, if any Agneta Breitenstein	
Second inventor's signature	Date
Residence Jamaica Plain, Massachusetts	
Citizenship	
Mailing Address 124 Williams Street, #2 Jamaica Plain, Massachusetts 02130	

Full name of third inventor, if any Don Pettini	
Third inventor's signature	Date 6/24/03
Residence Andover, Massachusetts	
Citizenship	
Mailing Address 6 Russett Lane Andover, Massachusetts 01810	

Attorney Docket No.: PSIX-P01-010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DECLARATION FOR PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled:

ANONYMOUS INTERNET PROFILING AND ONE-WAY COMPUTER IP CONVERSION METHOD AND SYSTEM

the specification of which was filed on August 30, 2002 as Application No. 10/232773.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by an amendment, if any, specifically referred to herein.

I acknowledge the duty to disclose all information known to me that is material to patentability in accordance with Title 37, Code of Federal Regulations, § 1.56.

FOREIGN PRIORITY CLAIM

I hereby claim foreign priority benefits under Title 35, United States Code § 119(a)-(d) of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

[x] no such foreign applications have been filed

[ ] such foreign application have been filed as follows:

Attorney Docket No.: PSIX-P01-010

EARLIEST FOREIGN APPLICATION(S), IF ANY FILED WITHIN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION

Application Number	Country	Date of Filing	Priority Claimed Under 35 USC 119
			___ Yes No ___
			___ Yes No ___
			___ Yes No ___

ALL FOREIGN APPLICATION(S), IF ANY FILED MORE THAN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION

Application Number	Country	Date of Filing

CLAIM FOR BENEFIT OF EARLIER U.S. PROVISIONAL APPLICATIONS

I hereby claim priority benefits under Title 35, United States Code §119(e), of any United States provisional patent application(s) listed below:

☐ no such U.S. provisional applications have been filed.

☒ such U.S. provisional application have been filed as follows:

Application Number	Date of Filing	Priority Claimed Under 35 USC 119
60/315,752	August 30, 2001	x Yes No ___
60/315,756	August 30, 2001	x Yes No ___
		___ Yes No ___

Attorney Docket No.: PSIX-P01-010

CLAIM FOR BENEFIT OF EARLIER U.S./PCT APPLICATION(S)

I hereby claim the benefit under Title 35, United States Code, §120 of the United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose all information that is material to patentability in accordance with Title 37, Code of Federal Regulations, §1.56 which became available to me between the filing date of the prior application and the national or PCT international filing date of this application:

[x] no such U.S./PCT applications have been filed.

[ ] such U.S./PCT application have been filed as follows:

Application Number	Date of Filing	Status (Patented/Pending/Abandoned)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Please mail all correspondence to the Assignee, whose address is:

PrivaSource, Inc.
950 Winter Street, Suite 1700
Waltham, Massachusetts 02451

The Assignee may also be contacted by telephone at 781-684-8604 or by facsimile at 781-684-8095.

Attorney Docket No.: PSIX-P01-010

Full name of sole or first inventor Dr. Lars Carl Erickson	
Sole or first inventor's signature	Date
Residence Newtonville, MA	
Citizenship	
Mailing Address 54 Oakwood Rd. Newtonville, Massachusetts 02460	

Full name of second inventor, if any Agneta Breitenstein	
Second inventor's signature	Date 6/25/03
Residence Jamaica Plain, Massachusetts	
Citizenship	
Mailing Address 124 Williams Street, #2 Jamaica Plain, Massachusetts 02130	

Attorney Docket No.: PSIX-P01-010

Full name of sole or first inventor Dr. Lars Carl Erickson	
Sole or first inventor's signature	Date 6.27.03
Residence Newtonville, MA	
Citizenship	
Mailing Address 54 Oakwood Rd. Newtonville, Massachusetts 02460	

Full name of second inventor, if any Agneta Breitenstein	
Second inventor's signature	Date
Residence Jamaica Plain, Massachusetts	
Citizenship	
Mailing Address 124 Williams Street, #2 Jamaica Plain, Massachusetts 02130	

Please type a plus sign (+) inside this box [+]

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REVOCATION OF POWER OF ATTORNEY OR AUTHORIZATION OF AGENT

Application Number	10/232773
Filing Date	August 30, 2002
First Named Inventor	Dr. Lars Carl Erickson
Group Art Unit	2151
Examiner Name	Not Yet Assigned
Attorney Docket Number	PSIX-P01-010

I hereby revoke all previous powers of attorney or authorizations of agent given in the above-identified application:

[ ] A Power of Attorney or Authorization of Agent is submitted herewith.

OR

[x] Please change the correspondence address for the above-identified application to:

[ ] Customer Number [ ] → [ ]
Customer Number

OR

FAX RECEIVED
JUN 30 2003
PETITIONS OFFICE

[x] Firm or Individual Name	PrivaSource Inc. Miles Coverdale				
Address	950 Winter Street, Suite 1700				
City	Waltham	State	MA	Zip	02451
Country	US	Telephone	781-684-8604	Fax	781-684-8095

I am the:

[ ] Applicant/Inventor.

[x] Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

SIGNATURE of Applicant or Assignee of Record

Name	Miles Coverdale, Authorized Signer for Assignee
Signature	Miles Coverdale
Date	6/30/03

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

[ ] *Total of 1 forms are submitted.

Please type a plus sign (+) inside this box [+]

PTO/SB/82 (10-00)
Approved for use through 10/31/2002. 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.

REVOCATION OF POWER OF ATTORNEY OR AUTHORIZATION OF AGENT

Application Number	10/232772
Filing Date	August 30, 2002
First Named Inventor	Dr. Lars Carl Erickson
Group Art Unit	2151
Examiner Name	Not Yet Assigned
Attorney Docket Number	PSIX-P01-008

I hereby revoke all previous powers of attorney or authorizations of agent given in the above-identified application:

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JUN 30 2003
PETITIONS OFFICE

[ ] A Power of Attorney or Authorization of Agent is submitted herewith.

OR

[x] Please change the correspondence address for the above-identified application to:

[ ] Customer Number [ ] → [ ]
Customer Number

OR

[x] Firm or Individual Name	PrivaSource Inc. Miles Coverdale				
Address	950 Winter Street, Suite 1700				
City	Waltham	State	MA	Zip	02451
Country	US	Telephone	781-684-8604	Fax	781-684-8095

I am the:

[ ] Applicant/Inventor.

[x] Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

SIGNATURE of Applicant or Assignee of Record

Name	Miles Coverdale, Authorized Signer for Assignee
Signature	Miles Coverdale
Date	6/30/03

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

[ ] *Total of 1 forms are submitted.

Please type a plus sign (+) inside this box [+]

PTO/SB/82 (10-00)
Approved for use through 10/31/2002. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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REVOCATION OF POWER OF ATTORNEY OR AUTHORIZATION OF AGENT

Application Number	US02/27818
Filing Date	August 30, 2002
First Named Inventor	Dr. Lars Carl Erickson
Group Art Unit	N/A
Examiner Name	Not Yet Assigned
Attorney Docket Number	PSIX-PWO-008

I hereby revoke all previous powers of attorney or authorizations of agent given in the above-identified application:

FAX RECEIVED
JUN 30 2003
PETITIONS OFFICE

[ ] A Power of Attorney or Authorization of Agent is submitted herewith.

OR

[x] Please change the correspondence address for the above-identified application to:

[ ] Customer Number [ ] → [ ]
OR *Customer Number*

[x] Firm or Individual Name	PrivaSource Inc. Miles Coverdale				
Address	950 Winter Street, Suite 1700				
City	Waltham	State	MA	Zip	02451
Country	US	Telephone	781-684-8604	Fax	781-684-8095

I am the:

[ ] Applicant/Inventor.

[x] Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

SIGNATURE of Applicant or Assignee of Record

Name	Miles Coverdale, Authorized Signer for Assignee
Signature	Miles Coverdale
Date	6/30/03

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

[ ] *Total of 1 forms are submitted.

Attorney Docket No.: PSIX-PWO-008

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Erickson et al

Application No./Patent No.: US02/27818 Filed/Issue Date: August 30, 2002

Entitled: DATABASE PRIVACY SCREENING SYSTEMS AND METHODS

PrivaSource, Inc. (Name of Assignee), a Corporation (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. [x] the assignee of the entire right, title, and interest; or
2. [ ] an assignee of less than the entire right, title and interest. The extent (by, percentage) of its ownership interest is _____ %

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JUN 30 2003
PETITIONS OFFICE

in the patent application/patent identified above by virtue of either:

A. [x] An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 013753, Frame 0832, or for which a copy thereof is attached.

OR

B. [ ] A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: _____ To: _____
   The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
2. From: _____ To: _____
   The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
3. From: _____ To: _____
   The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

[ ] Additional documents in the chain of title are listed on a supplemental sheet.

[ ] Copies of assignments or other documents in the chain of title are attached.
[NOTE: A separate copy (*i.e.*, the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

6/30/03
Date

Miles Coverdale
Typed or printed name

Miles Coverdale
Signature

Authorized Signer for Assignee
Title

Attorney Docket No.: PSIX-P01-008

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Erickson et al

Application No./Patent No.: 10/232772 Filed/Issue Date: August 30, 2002

Entitled: DATABASE SOURCE PRIVACY SCREENING SYSTEMS AND METHODS

PrivaSource, Inc. (Name of Assignee), a Corporation (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. [x] the assignee of the entire right, title, and interest; or
2. [ ] an assignee of less than the entire right, title and interest. The extent (by, percentage) of its ownership interest is _____ %

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JUN 30 2003
PETITIONS OFFICE

in the patent application/patent identified above by virtue of either:

A. [x] An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 013753, Frame 0832, or for which a copy thereof is attached.

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The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
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The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

6/30/03
Date

Miles Coverdale
Typed or printed name

Miles Coverdale
Signature

Authorized Signer for Assignee
Title

Attorney Docket No.: PSIX-P01-010

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Erickson et al

Application No./Patent No.: 10/232773 Filed/Issue Date: August 30, 2002

Entitled: ANONYMOUS INTERNET PROFILING AND ONE-WAY COMPUTER IP CONVERSION METHOD AND SYSTEM

PrivaSource, Inc. (Name of Assignee), a Corporation (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. [x] the assignee of the entire right, title, and interest; or
2. [ ] an assignee of less than the entire right, title and interest.
   The extent (by, percentage) of its ownership interest is _____ %

in the patent application/patent identified above by virtue of either:

A. [x] An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 013753, Frame 0844, or for which a copy thereof is attached.

OR

B. [ ] A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: _____ To: _____
   The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
2. From: _____ To: _____
   The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
3. From: _____ To: _____
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The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

6/30/03
Date

Miles Coverdale
Typed or printed name

Miles Coverdale
Signature

Authorized Signer for Assignee
Title

UNITED STATES 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

PRIVASOURCE INC.
MILES COVERDALE
960 WINTER STREET
SUITE 1700
WALTHAM, MA 02451

COPY MAILED

AUG 07 2003

OFFICE OF PETITIONS

In re Application of Erickson, et al. Application No. 10/232,772 Filed: August 30, 2002 Atty. Dkt. No.: PSIX-P01-008 Title: DATA SOURCE PRIVACY SCREENING SYSTEMS AND METHODS	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed June 30, 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 "Renewed Petition," and should only address the deficiencies noted below. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed August 30, 2002 without an executed oath or declaration and naming Lars Carl Erickson and Agneta Breitenstein as joint inventors. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed August 30, 2002 requiring, among other items, an executed oath or declaration and a surcharge. A petition under 37 CFR 1.47(a) was filed March 7, 2003 and dismissed May 5, 2003.

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

Petitioner, however, has failed to fully comply with the Notice to File Missing Parts mailed October 4, 2002. Petitioner has failed to submit an oath or declaration in full compliance with 37 CFR 1.63. The declaration, while executed by the inventors, is not acceptable as it fails to set forth the citizenship of the named inventors as required under 37 CFR 1.63(a)(3). Any renewed petition must be accompanied by a proper oath or declaration.

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

Application No. 10/232,772

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

PrivaSource, Inc.

950 Winter Street, Suite 1700
Waltham, MA 02451
Main: 781-684-8604
Fax: 781-684-8095
www.privasource.com

Date ~~6/30/03~~
8/19/03

To: Alexis M. Brown
~~Office of Petitions~~

Fax: (703) 308-6916

From: Miles Coverdale
PrivaSource, Inc.
(781) 684-8207

FAX RECEIVED
AUG 22 2003
PETITIONS OFFICE

Pages: ~~18~~ 15
(Including Cover)

Re: Request for Reconsideration of Petition

PrivaSource, Inc.
950 Winter Street, Suite 1700
Waltham, MA 02451

August 19, 2003

By fax on 8/19/03

Ms. Alesia M. Brown
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy
United States Patent and Trademark Office
Washington, D.C. 20231

FAX RECEIVED
AUG 2 2 2003
PETITIONS OFFICE

Re: Request for Reconsideration of Petition Under 37 CFR 1.47(a)
U.S. Patent Application Numbers 10/232,772 and 10/232,773

Dear Ms. Brown:

Enclosed are the Declaration for Patent Application forms for the above patent applications previously sent on June 30, 2003. I have added the citizenship of the named inventors. Please reconsider both petitions.

Sincerely,

Miles Coverdale

Miles Coverdale
Chief Financial Officer

Attorney Docket No.: PSIX-P01-008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DECLARATION FOR PATENT APPLICATION

FAX RECEIVED
AUG 2 2 2003
PETITIONS OFFICE

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled:

DATA SOURCE PRIVACY SCREENING SYSTEMS AND METHODS

the specification of which was filed on August 30, 2002 as Application No. 10/232,772.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by an amendment, if any, specifically referred to herein.

I acknowledge the duty to disclose all information known to me that is material to patentability in accordance with Title 37, Code of Federal Regulations, § 1.56.

FOREIGN PRIORITY CLAIM

I hereby claim foreign priority benefits under Title 35, United States Code § 119(a)-(d) of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

[x] no such foreign applications have been filed

[ ] such foreign application have been filed as follows:

Attorney Docket No.: PSIX-P01-008

EARLIEST FOREIGN APPLICATION(S), IF ANY FILED WITHIN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION

Application Number	Country	Date of Filing	Priority Claimed Under 35 USC 119
			___ Yes No ___
			___ Yes No ___
			___ Yes No ___

ALL FOREIGN APPLICATION(S), IF ANY FILED MORE THAN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION

Application Number	Country	Date of Filing

CLAIM FOR BENEFIT OF EARLIER U.S. PROVISIONAL APPLICATIONS

I hereby claim priority benefits under Title 35, United States Code §119(e), of any United States provisional patent application(s) listed below:

☐ no such U.S. provisional applications have been filed.

☒ such U.S. provisional application have been filed as follows:

Application Number	Date of Filing	Priority Claimed Under 35 USC 119
60/315,751	August 30, 2001	x Yes No
60/315,753	August 30, 2001	x Yes No
60/315,754	August 30, 2001	x Yes No
60/315,755	August 30, 2001	x Yes No
60/335,787	December 5, 2001	x Yes No

Attorney Docket No.: PSIX-P01-008

CLAIM FOR BENEFIT OF EARLIER U.S./PCT APPLICATION(S)

I hereby claim the benefit under Title 35, United States Code, §120 of the United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose all information that is material to patentability in accordance with Title 37, Code of Federal Regulations, §1.56 which became available to me between the filing date of the prior application and the national or PCT international filing date of this application:

[x] no such U.S./PCT applications have been filed.

[ ] such U.S./PCT application have been filed as follows:

Application Number	Date of Filing	Status (Patented/Pending/Abandoned)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Please mail all correspondence to the Assignee, whose address is:

PrivaSource, Inc.
950 Winter Street, Suite 1700
Waltham, Massachusetts 02451

The Assignee may also be contacted by telephone at 781-684-8604 or by facsimile at 781-684-8095.

Attorney Docket No.: PSIX-P01-008

Full name of sole or first inventor Dr. Lars Carl Erickson	
Sole or first inventor's signature	Date
Residence Newtonville, MA	
Citizenship	
Mailing Address 54 Oakwood Rd. Newtonville, Massachusetts 02460	

Full name of second inventor, if any Agneta Breitenstein	
Second inventor's signature	Date 6/25/03
Residence Jamaica Plain, Massachusetts	
Citizenship U.S.A.	
Mailing Address 124 Williams Street, #2 Jamaica Plain, Massachusetts 02130	

Full name of third inventor, if any Don Pettini	
Third inventor's signature	Date 6/24/03
Residence Andover, Massachusetts	
Citizenship U.S.A.	
Mailing Address 6 Russett Lane Andover, Massachusetts 01810	

Attorney Docket No.: PSIX-P01-008

Full name of sole or first inventor Dr. Lars Carl Erickson	
Sole or first inventor's signature	Date 6.27.03
Residence Newtonville, MA	
Citizenship U.S.A.	
Mailing Address 54 Oakwood Rd. Newtonville, Massachusetts 02460	

Full name of second inventor, if any Agneta Breitenstein	
Second inventor's signature	Date
Residence Jamaica Plain, Massachusetts	
Citizenship	
Mailing Address 124 Williams Street, #2 Jamaica Plain, Massachusetts 02130	

Full name of third inventor, if any Don Pettini	
Third inventor's signature	Date 6/24/03
Residence Andover, Massachusetts	
Citizenship U.S.A.	
Mailing Address 6 Russett Lane Andover, Massachusetts 01810	

Attorney Docket No.: PSIX-P01-010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DECLARATION FOR PATENT APPLICATION

FAX RECEIVED
AUG 2 2 2003
PETITIONS OFFICE

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled:

ANONYMOUS INTERNET PROFILING AND ONE-WAY COMPUTER IP CONVERSION METHOD AND SYSTEM

the specification of which was filed on August 30, 2002 as Application No. 10/232773.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by an amendment, if any, specifically referred to herein.

I acknowledge the duty to disclose all information known to me that is material to patentability in accordance with Title 37, Code of Federal Regulations, § 1.56.

FOREIGN PRIORITY CLAIM

I hereby claim foreign priority benefits under Title 35, United States Code § 119(a)-(d) of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

[x] no such foreign applications have been filed

[ ] such foreign application have been filed as follows:

Attorney Docket No.: PSIX-P01-010

EARLIEST FOREIGN APPLICATION(S), IF ANY FILED WITHIN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION

Application Number	Country	Date of Filing	Priority Claimed Under 35 USC 119
			___ Yes No ___
			___ Yes No ___
			___ Yes No ___

ALL FOREIGN APPLICATION(S), IF ANY FILED MORE THAN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION

Application Number	Country	Date of Filing

CLAIM FOR BENEFIT OF EARLIER U.S. PROVISIONAL APPLICATIONS

I hereby claim priority benefits under Title 35, United States Code §119(e), of any United States provisional patent application(s) listed below:

☐ no such U.S. provisional applications have been filed.

☒ such U.S. provisional application have been filed as follows:

Application Number	Date of Filing	Priority Claimed Under 35 USC 119
60/315,752	August 30, 2001	x Yes No ___
60/315,756	August 30, 2001	x Yes No ___
		___ Yes No ___

Attorney Docket No.: PSIX-P01-010

CLAIM FOR BENEFIT OF EARLIER U.S./PCT APPLICATION(S)

I hereby claim the benefit under Title 35, United States Code, §120 of the United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose all information that is material to patentability in accordance with Title 37, Code of Federal Regulations, §1.56 which became available to me between the filing date of the prior application and the national or PCT international filing date of this application:

[x] no such U.S./PCT applications have been filed.

[ ] such U.S./PCT application have been filed as follows:

Application Number	Date of Filing	Status (Patented/Pending/Abandoned)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Please mail all correspondence to the Assignee, whose address is:

PrivaSource, Inc.
950 Winter Street, Suite 1700
Waltham, Massachusetts 02451

The Assignee may also be contacted by telephone at 781-684-8604 or by facsimile at 781-684-8095.

Attorney Docket No.: PSIX-P01-010

Full name of sole or first inventor Dr. Lars Carl Erickson	
Sole or first inventor's signature	Date
Residence Newtonville, MA	
Citizenship	
Mailing Address 54 Oakwood Rd. Newtonville, Massachusetts 02460	

Full name of second inventor, if any Agneta Breitenstein	
Second inventor's signature	Date 6/25/03
Residence Jamaica Plain, Massachusetts	
Citizenship U.S.A.	
Mailing Address 124 Williams Street, #2 Jamaica Plain, Massachusetts 02130	

Attorney Docket No.: PSIX-P01-010

Full name of sole or first inventor Dr. Lars Carl Erickson	
Sole or first inventor's signature	Date 6.27.03
Residence Newtonville, MA	
Citizenship U.S.A.	
Mailing Address 54 Oakwood Rd. Newtonville, Massachusetts 02460	

Full name of second inventor, if any Agneta Breitenstein	
Second inventor's signature	Date
Residence Jamaica Plain, Massachusetts	
Citizenship	
Mailing Address 124 Williams Street, #2 Jamaica Plain, Massachusetts 02130	

Attorney Docket No.: PSIX-P01-008

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Erickson et al

Application No./Patent No.: 10/232772 Filed/Issue Date: August 30, 2002

Entitled: DATABASE SOURCE PRIVACY SCREENING SYSTEMS AND METHODS

PrivaSource, Inc. (Name of Assignee), a Corporation (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. [x] the assignee of the entire right, title, and interest; or
2. [ ] an assignee of less than the entire right, title and interest.
   The extent (by, percentage) of its ownership interest is _____ %

in the patent application/patent identified above by virtue of either:

A. [x] An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 013753, Frame 0832, or for which a copy thereof is attached.

OR

B. [ ] A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: _____ To: _____
   The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
2. From: _____ To: _____
   The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
3. From: _____ To: _____
   The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

[ ] Additional documents in the chain of title are listed on a supplemental sheet.

[ ] Copies of assignments or other documents in the chain of title are attached.
[NOTE: A separate copy (*i.e.*, the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

6/30/03
Date

Miles Coverdale
Typed or printed name

Miles Coverdale
Signature

Authorized Signer for Assignee
Title

Attorney Docket No.: PSIX-P01-010

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Erickson et al

Application No./Patent No.: 10/232773 Filed/Issue Date: August 30, 2002

Entitled: ANONYMOUS INTERNET PROFILING AND ONE-WAY COMPUTER IP CONVERSION METHOD AND SYSTEM

PrivaSource, Inc. (Name of Assignee), a Corporation (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. [x] the assignee of the entire right, title, and interest; or
2. [ ] an assignee of less than the entire right, title and interest.
   The extent (by, percentage) of its ownership interest is _____ %

in the patent application/patent identified above by virtue of either:

A. [x] An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 013753, Frame 0844, or for which a copy thereof is attached.

OR

B. [ ] A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: _____ To: _____
   The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
2. From: _____ To: _____
   The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
3. From: _____ To: _____
   The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

[ ] Additional documents in the chain of title are listed on a supplemental sheet.

[ ] Copies of assignments or other documents in the chain of title are attached.
[NOTE: A separate copy (*i.e.*, the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

6/30/03
Date

Miles Coverdale
Typed or printed name

Miles Coverdale
Signature

Authorized Signer for Assignee
Title

UNITED STATES 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

PRIVASOURCE INC.
MILES COVERDALE
960 WINTER STREET
SUITE 1700
WALTHAM, MA 02451

COPY MAILED

SEP 02 2003

OFFICE OF PETITIONS

In re Application of
Erickson, et al.
Application No. 10/232,772
Filed: August 30, 2002
Atty. Dkt. No.: PSIX-P01-008
Title: DATA SOURCE PRIVACY
SCREENING SYSTEMS AND METHODS

DECISION REFUSING
STATUS UNDER 37 CFR
1.47(a)

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed August 22, 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 "Renewed Petition," and should only address the deficiencies noted below. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed August 30, 2002 without an executed oath or declaration and naming Lars Carl Erickson and Agneta Breitenstein as joint inventors. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed August 30, 2002 requiring, among other items, an executed oath or declaration and a surcharge. A petition under 37 CFR 1.47(a) was filed March 7, 2003 and dismissed May 5, 2003. A renewed petition was filed July 7, 2003 and dismissed July 30, 2003.

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

Petitioner however has failed to submit an oath or declaration in full compliance with 37 CFR 1.63. The declaration, while executed by the inventors, is not acceptable as it fails to set forth the citizenship of each named inventors as required under 37 CFR 1.63(a)(3). Any renewed petition must be accompanied by a proper oath or declaration. The declaration submitted with the instant petition is not acceptable as it contains alterations that have not been initialed and dated by each of the signing inventors in accordance with 37 CFR 1.52(c). Moreover, the declaration fails to identify the citizenship of each inventor. Petitioner is advised to prepare an original declaration for execution by each available inventor.

Any renewed petition must be accompanied by an oath or

Application No. 10/232,772

declaration in compliance with 37 CFR 1.63.

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

PRIVASOURCE INC.
MILES COVERDALE
960 WINTER STREET
SUITE 1700
WALTHAM, MA 02451

COPY MAILED
FEB 12 2004
OFFICE OF PETITIONS

In re Application of	:
Erickson, et al.	:
Application No. 10/232,772	: DECISION NOTING JOINDER
Filed: August 30, 2002	: OF INVENTOR AND PETITION
Atty. Dkt. No.: PSIX-P01-008	: UNDER 37 CFR 1.47(a) MOOT
For: DATA SOURCE PRIVACY	:
SCREENING SYSTEMS AND METHODS	:

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

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
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

JOSEPH S. TRIPOLI
THOMSON MULTIMEDIA LICENSING INC.
2 INDEPENDENCE WAY
P.O. BOX 5312
PRINCETON, NJ 08543-5312

COPY MAILED

OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Aaron Reel Bouillet	:	
Application No. 10/232,789	:	ON PETITION
Filed: August 29, 2002	:	
Attorney Docket No. PU020390	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 7, 2006, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

The above application became abandoned for failure to timely respond to the non-final Office action mailed on December 14, 2005. A Notice of Abandonment was mailed on July 26, 2006.

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

With respect to item (2), Petitioner states that a check in the amount of $1,500 is enclosed with the instant petition. However, the USPTO failed to receive the check in the amount of $1,500. Therefore, revival of this application cannot occur until the above fee has been submitted.

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

JOSEPH S. TRIPOLI
THOMSON MULTIMEDIA LICENSING INC.
2 INDEPENDENCE WAY
P.O. BOX 5312
PRINCETON, NJ 08543-5312

COPY MAILED

NOV 20 2006

OFFICE OF PETITIONS

In re Application of :
Aaron Reel Bouillet :
Application No. 10/232,789 :
Filed: August 29, 2002 :
Attorney Docket No. PU020390 :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 23, 2006, to revive the above-identified application.

The petition now 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 $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of one (1) sheet of replacement drawings containing Figures 1-3 filed on October 23, 2006.

This application file is being referred to Technology Center Art Unit 2611, for review of the amendment/drawings 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOSEPH S. TRIPOLI
THOMSON MULTIMEDIA LICENSING, INC.
2 INDEPENDENCE WAY
P.O. BOX 5312
PRINCETON, NJ 08543-5312

COPY MAILED

AUG 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Aaron Reel Bouillet.	:	
Application No. 10/232,789	:	ON PETITION
Filed: August 29, 2002	:	
Attorney Docket No. PU020390	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on August 15, 2007, to revive the above-identified application.

The above application became abandoned for failure to file a proper reply to the final Office action mailed February 9, 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) under 37 CFR 1.114, with the $790 filing fee; (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.

The application file is being referred to Technology Center Art Unit 2611, for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WELLS ST. JOHN PS
601 W FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

COPY MAILED

APR 2 3 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Luan Tran et al	:	
Application No. 10/232,794	:	
Filed: August 28, 2002	:	
Attorney Docket No. M122-2109	:	

This is a decision on the petition, filed April 22, 2004, 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**.

Petitioner requests withdrawal of the above-identified application from issue for the purpose of express abandonment in favor of an application under 37 CFR 1.53(b) stated to have been filed concurrently with the instant petition.

As requested, the above-identified application is withdrawn from issue. The express abandonment of this application is recognized. See 37 CFR 1.313(c)(3).

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

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TEXAS INSTRUMENTS INCORPORATED
PO BOX 655474, M/S 3999
DALLAS, TX 75265

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SEP 07 2007

OFFICE OF PETITIONS

In re Application of :
Yan Hui, et al. :
Application No. 10/232,796 : DECISION ON PETITION
Filed: August 28, 2002 :
Attorney Docket No. TI-34259 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 25, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 23, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 24, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2611 for appropriate action by the Examiner in the normal course of business on the reply received April 25, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

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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GARY L. SHAFFER, ESQ.
901 BANKS PLACE
ALEXANDRIA VA 22312-5507

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JAN 2 2 2009

OFFICE OF PETITIONS

In re Patent No. 6,802,669	:	
Issue Date: October 12, 2004	:	
Application No. 10/232,811	:	DECISION ON PETITION
Filed: September 3, 2002	:	
Attorney Docket No. 29641-175072	:	

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

The petition is **GRANTED**.

This patent expired on October 13, 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 **entire** 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. Also, 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. Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further, petitioner has submitted a total of $2,195.00 in fee charges. However, the required three and one-half year maintenance fee is $490.00 and the surcharge fee is $1,640.00, thus creating an overage of $65.00. Petitioner's deposit account will be refunded the $65.00 overage in due course.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

The patent file is being forwarded to Files Repository.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Jerald L. Meyer
The Nath Law Group
112 S. West Street
Alexandria, VA 22314

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.
10/232,816	09/03/2002	Jochen Spriestersbach	P65918US1	8149

136 7590 06/17/2008
JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

EXAMINER
IP, SIKYIN

ART UNIT	PAPER NUMBER
1793	

MAIL DATE	DELIVERY MODE
06/17/2008	PAPER

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

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed: 6-17-08

In re application of	:	
Spriestersbach et al.	:	DECISION ON
Serial No. 10/232,816	:	PETITION
Filed: September 3, 2002	:	
For: Wire Based On Zinc And Aluminum And Its Use In Thermal Spraying For Corrosion Protection	:	

This is a sua sponte response to withdraw the abandonment of this application and is being considered as a PETITION UNDER RULE 37 C.F.R. 1.181(a) TO WITHDRAW NOTICE OF ABANDONMENT. A review of the record indicates that applicant has filed a request for rehearing on April 29, 2008. A review of the circumstances dictates that the application should not have been abandoned.

DECISION

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

The Petition is **GRANTED**.

The application is returned to pending status and forwarded to the Board of Appeal.

William Krynski, Quality Assurance Specialist
Technology Center 1700
Chemical and Materials Engineering

JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON DC 20004

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ASTHMATX, INC.
C/O LEVINE BAGADE HAN, LLP
2483 EAST BAYSHORE ROAD
SUITE 100
PALO ALTO, CA 94303

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JAN 07 2008

OFFICE OF PETITIONS

In re Application of
LAUFER, Michael D. et al.
Application No. 10/232,909
Filed: August 30, 2002
Attorney Docket No. **649218047US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 16, 2007.

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

A review of the file record indicates that the power of attorney to ASTHMATX, INC. has been revoked by the assignee of the patent application on December 12, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **PERKINS COIE LLP**
PATENT SEA
P.O. BOX 1247
SEATTLE WA 98111

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAKER & MCKENZIE LLP
Pennzoil Place, South Tower
711 Louisiana, Suite 3400
HOUSTON, TX 77002-2716

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JUN 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Liang, et al.	:	
Filed: August 29, 2002	:	ON PETITION
Application No. 10/232,923	:	
Atty. Dkt. No.: 32144183-000014	:	

The above-identified application has been forwarded to the Office of Petitions for consideration of the "Petition" filed January 13, 2003 filed in connection with the Notice to File Missing Parts mailed November 13, 2002.

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

The application was filed August 29, 2002. A Notice to File Missing Parts of Nonprovisional Application was mailed November 13, 2002 indicating that the instant application had been accorded a filing date of August 29, 2002, but that the application was rejected to due to the CD-ROM/CD-R and further indicated that a copy of the sequence listing in computer readable form was not submitted.

A review of the application history reveals that the sequence listings requirements have been met. Accordingly, the instant petition is moot.

No petition fee is due in connection with this matter.

This application will be returned to Technology Center 1600 for further processing, maintaining a filing date of August 29, 2002.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 2 8 2008

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

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

In re Application of	:
TODD PRAY et al	:Decision on Petition
Serial No.: 10/232,951	:
Filed : 30 August 2002	:
Attorney Docket No.:021044-006800US	:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 7 May 2007 requesting reconsideration of the restriction requirement dated 23 December 2005. The delay in acting upon this petition is regretted.

BACKGROUND

This application was filed as a national application under 35 USC 111(a). As such, this application is entitled to US restriction practice.

On 24 January 2005, an examiner required a 33-way restriction. Claims 1 and 2 were identified as linking Groups I-XXXIII.

On 17 February 2005, Applicants elected Group I, claims 3-4 and 6-11, drawn to a method of contacting a cell with a negative effector of a ubiquitin agent and screening for an altered cell cycle phenotype, with traverse.

On 3 May 2005, the examiner considered the traversal and made the restriction requirement FINAL. Claims 1-4 and 6-11 were examined on the merits. Claims 5 and 12-21 were with drawn from consideration as being directed to non-elected inventions.

On 3 October 2005, applicants amended claim 1 to recite that the negative effector is an siRNA targeted against mRNA encoding said ubiquitin agent and to refer to agents and moieties in Tables 1, 2 and 4. Claims 2-10 were cancelled.

On 23 December 2005, a second examiner withdrew the first restriction requirement and required a second restriction necessitated by the amendment to claim 1, in which applicants were to elect a single ubiquitin agent as set forth in Tables 1, 2 and 4 set forth in Claims 1 and 11. The Examiner also stated that Claim 1 no longer links the method identified as Groups I-XXXVV (sic, XXXIII) in the Office action mailed 2 January 2005. Additionally, the Examiner withdrew claims 12-21 as being directed to a nonelected invention, there being no allowable generic or linking claim.

On 23 March 2006, applicants elected with traverse E2 ubiquitin conjugating agent of Table 2 of accession number NM_022476.1.

On 6 November 2006, the examiner considered the traversal and made the restriction requirement FINAL. Claims 1 and 11 were rejected under 35 USC 112, first and second paragraph, and under 35 USC 103(a0 as being unpatentable over Lesche in view of Elbashir. Claims 12-21 were withdrawn from consideration as being directed to a non-elected invention.

On 6 March 2007, applicants filed a Notice of Appeal.

On 7 May 2007, applicants filed this petition and an after final amendment further amending the claims.

On 24 May 2007, a telephone interview with the examiner was conducted.

On 14 June 2007, applicants filed a Request for Continued Examination.

DISCUSSION

The file history and petition have been considered carefully.

Originally filed Claim 1 stated:

1. A method comprising:

a) contacting a cell with a negative effector of a ubiquitin agent, said ubiquitin agent being selected from the group consisting of a ubiquitin moiety, a ubiquitin activating agent (E1), a ubiquitin conjugating agent (E2) and a ubiquitin ligating agent (E3);

b) screening said cell for an altered phenotype, whereby said ubiquitin agent is identified as a modulator of said phenotype.

On 3 October 2005, Claim 1 was amended as follows:

1. (currently amended) A method comprising:

a) contacting a mammalian cell with a negative effector of a ubiquitin agent, said ubiquitin agent being selected from the group consisting of a ubiquitin moiety of Table 4, [[a]] **an E1** ubiquitin activating agent of Table 1 [[(E1),]] **and an E2** [[a]] ubiquitin conjugating agent of Table 2 ~~(E2) and a ubiquitin ligating agent (E3)~~, wherein said negative effector is an siRNA targeted against mRNA encoding said ubiquitin agent;

b) screening said cell for an altered phenotype, whereby said ubiquitin agent is identified as a modulator of said phenotype.

In the original restriction requirement, Groups I-XI were directed to a method of contacting a mammalian cells with a negative effector of a ubiquitin agent, wherein the effector was siRNA; Groups XII-XXII were directed to a method of contacting a mammalian cells with a negative effector of a ubiquitin agent, wherein the effector was an antisense; Groups XXIII-XXXIII were directed to a method of contacting a mammalian cells with a negative effector of a ubiquitin agent, wherein the effector was a dominant negative variant.

On 3 October 2005, the claims were amended to require that the effector was a siRNA. This amendment reflected the scope of Groups I-XI. On 3 October 2005, all claims to Groups XII-XXXIII were canceled.

In the Office action mailed 23 December 2005, the examiner incorrectly withdrew the entire original restriction requirement in favor of a new restriction requirement amongst the inventions originally designated as Groups I-XI.

In order to clarify the record, the original restriction between Groups (I-XI) and Groups (XII-XXXIII) is maintained. This will permit applicants to file a divisional application to the non-elected inventions under 35 USC 121.

Additionally, in the Office action mailed 23 December 2005, the Examiner withdrew claims 12-21 as being directed to a nonelected invention, there being no allowable generic or linking claim. Claims 12-21 depend from and further limit independent claim 1 and further describe the altered property being screened for and/or cell type of Claim 1. Withdrawing claims 12-21 from examiner created confusion for the following reason.

First, while the Office action set forth on 24 January 2005 required applicants to elect one of 11 altered properties being screened for, as attributed to Groups I-XI, this requirement was withdrawn in the office action mailed 23 December 2005.

Second, when the requirement for restriction is withdrawn, in its entirety or in part, by the examiner before the patent issues, the non-elected claims that are no longer withdrawn from consideration become subject to examination. "The restriction requirement disappears; it is as though it had not been made. With the disappearance of the restriction requirement, the need for

a divisional application and the need for the third sentence prohibition also disappear." *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 132 (CCPA 1971).

In order to clarify the record, the original restriction among Groups I-XI is maintained. This will permit applicants to file a divisional application to the non-elected inventions under 35 USC 121, should there be no generic or linking claim allowable.

On 7 May 2007, Claim 1 was amended as follows:

> 1 (currently amended): A method of identifying ubiquitination E1, E2, or E3 enzymes which modulate cellular phenotype comprising:
>
> a) contacting a population of mammalian cells in vitro with a library of siRNA negative effectors of ubiquitination E1, E2, or E3 enzymes to generate a population of siRNA treated cells; ~~a ubiquitin agent, said ubiquitin agent, being selected from the group consisting of a ubiquitin moiety of Table 4, an E1 ubiquitin activating agent of Table 1 and an E2 ubiquitin conjugating agent of Table 2, wherein said negative effector is an siRNA targeted against mRNA encoding said ubiquitin agent;~~
>
> b) isolating cells from ~~screening~~ said population of siRNA treated cells ~~for~~ that have an altered cellular phenotype; and ~~,whereby said ubiquitin agent is identified as a modulator of said phenotype.~~
>
> c) determining the sequence of the siRNA within cells that have an altered cellular phenotype, thereby identifying an ubiquitination E1, E2, or E3 enzyme which modulates cellular phenotype.

The petition has argued that the claim should be considered under election of species practice. This is immaterial. Regardless of whether claim 1 is examined under Markush practice (MPEP 803.02) or linking claim practice (MPEP 809), the examination process will be essentially the same.

MPEP 809 provides guidance on the examination practice of species encompassed by a generic claim:

> The most common types of linking claims which, if allowable, act to prevent restriction between inventions that can otherwise be shown to be divisible, are
>
> (A) genus claims linking species claims; and
>
> (B) subcombination claims linking plural combinations.
>
> Where an application includes claims to distinct inventions as well as linking claims, restriction can nevertheless be required.

> The linking claims must be examined with, and thus are considered part of, the invention elected. When all claims directed to the elected invention are allowable, should any linking claim be allowable, the restriction requirement between the linked inventions must be withdrawn. Any claim(s) directed to the nonelected invention(s), previously withdrawn from consideration, which depends from or requires all the limitations of the allowable linking claim must be rejoined and will be fully examined for patentability.

MPEP 803.02 provides guidance on examination practice of species recited in the alternative of a single claim:

> Following election, the Markush-type claim will be examined fully with respect to the elected species and further to the extent necessary to determine patentability. If the Markush-type claim is not allowable, the provisional election will be given effect and examination will be limited to the Markush-type claim and claims to the elected species, with claims drawn to species patentably distinct from the elected species held withdrawn from further consideration.
>
> ...
>
> If on examination the elected species is found to be anticipated or rendered obvious by prior art, the Markush-type claim and claims to the elected species shall be rejected, and claims to the nonelected species would be held withdrawn from further consideration.

MPEP 809 provides the following guidance concerning linked inventions

> Where the requirement for restriction in an application is predicated upon the nonallowability of generic or other type of linking claims, applicant is entitled to retain in the application claims to the nonelected invention or inventions.

MPEP 821.04(a) provides guidance on rejoinder and double patenting in this situation.

> Where restriction was required between independent or distinct products, or between independent or distinct processes, and all claims directed to an elected invention are allowable, any restriction requirement between the elected invention and any nonelected invention that depends from or otherwise requires all the limitations of an allowable claim should be withdrawn. For example, a requirement for restriction should be withdrawn when a generic claim, linking claim, or subcombination claim is allowable and any previously withdrawn claim depends from or otherwise requires all the limitations thereof. Claims that require all the limitations of an allowable claim will be rejoined and fully examined for patentability in accordance with 37 CFR 1.104. Claims that do not require all the limitations of an allowable claim remain withdrawn from consideration. However, in view of the withdrawal of the restriction requirement, if any claim presented in a continuing application includes all the limitations of a claim that is allowable in the parent application, such claim may be subject to a double patenting rejection over the claims of the parent application. Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See In re Ziegler, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

DECISION

The petition filed under 37 CFR 1.144 on 7 May 2007 is **DENIED**.

In order to preserve applicants' rights to file divisional applications under 35 USC 121, the original restriction between Groups (I-XI) and Groups (XII-XXXIII) is maintained.

Because there is not generic linking claim in condition or allowance, the restriction requirement set forth between original Groups I-XI is maintained.

The application will be forwarded to the examiner to consider the request for continued examination and to prepare an Office action consistent with this petition decision. Should all claims directed to the elected invention become in condition for allowance, the examiner is required to consider the rejoinder of any linked inventions, per MPEP 821.04(a).

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-272-8300.

George Elliott
Director, Technology Center 1600

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

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JUN 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Talaguan et al.	:	
Application No. 10/232,979	:	
Filed: August 29, 2002	:	DECISION ON PETITION
Atty Docket No.:	:	
1384.026US1	:	

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, filed March 9, 2006.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed June 27, 2005. The Notice set a non-extendable statutory period for reply of three (3) months. Accordingly, the application became abandoned September 28, 2005. A Notice of Abandonment was mailed November 7, 2005.

With the instant petition Applicant has submitted the issue fee.

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

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

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 28, 2007

TO SPE OF : ART UNIT 2615 Sinh N. Tran

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/232,984 Patent No.: 7082201 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**.

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.

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

Comments: _____

SPE

2615
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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MAIL

Paper No. 8

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

OCT 2 2 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Guy Pazi et al.
Application No.: 10/232,993
Filed: August 29, 2002
For: **PROTECTING AGAINST DISTRIBUTED DENIAL OF SERVICE ATTACKS**

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed September 19, 2003 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **DISMISSED**.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.
>
> (C) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a **detailed discussion** of the references, which discussion points out, with the **particularity** required by 37 CFR 1.111(b) and (c), **how** the claimed subject matter is patentable over the references.
>
> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Petitioner's submission is deficient in that it does not comply with the item (E) above:

(1) Petitioner does not submit a **detailed** discussion of the references. Petitioner briefly discusses the references, and generally refers to columns and lines of the references recited in the International Search Report, which is nothing near a detailed discussion.

(2) Petitioner's discussion does not "points out, with the **particularity** required by 37 CFR 1.111(b) and (c), **how** the claimed subject matter is patentable over the references" because Petitioner's submission compares the disclosures of the references with the disclosed subject matter, not with the claimed subject matter, *i.e.*, "claim limitations", of the invention. In addition, Petitioner's submission does not discuss independent claims 21 and 41.

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.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8-23-07 **Paper No.:** _____

TO SPE OF : ART UNIT 4700

SUBJECT : Request for Certificate of Correction for Appl. No. 7171683 B2 (10/232993)

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 reply A/S/A P. Attorney and Applicant want to know the status

Thanks

Eva James

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: _____

_____

_____

_____

_____

_____ **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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DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York NY 10008-0770

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SEP 13 2007

OFFICE OF PETITIONS

In re Patent No. 7,171,683	:	
Issue Date: January 30, 2007	:	
Application No. 10/232,993	:	ON PETITION
Filed: August 29, 2002	:	
Attorney Docket No. 6727/1M022US1	:	

This is a decision on the petition filed March 5, 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) 272-3230. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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.

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

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.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: FLYNN BARRISON
DARBY & DARBY
P.O. BOX 5257
NEW YORK, NY 10150-5257

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

O'Melveny & Myers LLP
400 So. Hope Street
Los Angeles CA 90071-2899

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NOV 1 8 2002

OFFICE OF PETITIONS

In re Application of	:	
John Kent Peacock	:	DECISION GRANTING
Application No. 10/232,995	:	PETITION
Filed: August 30, 2002	:	
Attorney Docket No. 843161-302	:	

This is a decision on the petition under 37 CFR 1.10(c), filed September 26, 2002, requesting that the above-identified application be accorded a filing date of August 30, 2002, rather than the presently accorded filing date of September 3, 2002.

Petitioner alleges that the application was deposited in Express Mail service on August 30, 2002. The petition is accompanied by a copy of Express Mail label No. EL640515677US. Although the "date-in" is illegible, the USPTO's USPS Express Mail Information Database indicates that a package bearing Express Mail label No. EL640515677US was deposited in Express Mail service on August 30, 2002, at 7:35 PM. The same Express Mail label number was placed on the original transmittal sheet 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 30, 2002, and the mailing of a corrected filing receipt.

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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JAN 31 2005

OFFICE OF PETITIONS

In re Application of :
Marc Unger :
Application No. 10/232,997 : ON PETITION
Filed: August 29, 2002 :
Attorney Docket No. 020174-007810US :

This is a decision on the petition under 37 CFR 1.137(b), filed September 27, 2004, to revive the above-identified application.

The petition is **GRANTED.**

A Notice of Non-Compliance was mailed on December 18, 2003. The Notice indicated that the Amendment filed December 5, 2003 was considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (see 68 Fed. Reg. 38611, June 30, 2003). Petitioner was given a time period of one (1) month or thirty (30) days from the mailing date of the notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment of the application. Accordingly, the application became abandoned on January 18, 2004.

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

The application matter is being referred to Technology Center 2800, Art Unit 2822 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 10/233007

Paper No.: _____

DATE : 2-8-06

TO SPE OF : ART UNIT 3762

SUBJECT : Request for Certificate of Correction on Patent No.: 6972013

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-922
Palm location 7580 - Tel. No. 305-8309

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

Check claims

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

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/233007

Paper No.: _____

DATE : 2-8-06

TO SPE OF : ART UNIT 3762

SUBJECT : Request for Certificate of Correction on Patent No.: 6972013

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-922
Palm location 7580 - Tel. No. 305-8309

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

Check claims

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:

MICHAEL P WOODWARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1615
Art Unit

PTOL-326 (REV. 7-03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 6

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of
Dirk Kroselberg
Application No. 10/233,013
Filed: September 3, 2002
Attorney Docket No.: 1454.1330
Title: SYSTEM FOR NEGOTIATING SECURITY ASSOCIATION ON APPLICATION LAYER

DECISION ON PETITION

This is a decision on the petition under 37 CFR § 1.137(b),[1,2] filed December 10, 2003, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed October 1, 2002, which set a shortened statutory period for reply of two (2) months. The notice required the basic filing fee, a properly executed oath or declaration along with the surcharge associated with the late filing of an oath or declaration, and additional claim fees. 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 December 2, 2002.

With the instant petition, Petitioner has submitted the basic filing fee, a declaration, the surcharge associated with the late filing of a declaration, the petition fee, the fee for additional claims.

Petitioner has met requirement (2) above, and requirement (4) is not applicable.

---

1 Petitioner has labeled the petition "Petition to revive under 37 C.F.R. §1.137(a)," but has submitted the fee associated with the filing of a petition under 37 C.F.R. §1.137(b), and characterized the abandonment as unintentional. As such, the Office will assume that the "a" is a typographical error.

2 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.

Regarding the first requirement above, Petitioner has failed to submit the required reply. The declaration Petitioner has submitted cannot be accepted, as it fails to comply with 37 CFR §1.63. The declaration submitted with the instant petition contains non-initialed changes by the inventor[3].

Regarding the third requirement above, 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 was unintentional." This statement must be made exactly as set forth in 37 C.F.R. §1.137(b). Moreover, this statement should be made by a registered practitioner or other party in interest having first hand knowledge of the circumstances surrounding the delay. If this statement is made by a registered practitioner not having firsthand knowledge of the circumstances surrounding the delay, the statement must be based upon a reasonable investigation of the circumstances surrounding the abandonment of the application[4]. Such statement by any person must be made consistent with the duty of candor and good faith and the duty to disclose material information to the Office[5].

For these reasons, this petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

On renewed petition, petitioner must submit the required reply (a newly executed declaration with either the typewritten changes made prior to its execution or with the initialed and dated changes made by hand) and make the proper statement of unintentional delay.

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

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

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

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

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

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3 See MPEP 605.04(a).
4 See 37 CFR §10.18(b).
5 See 37 CFR §1.56.
6 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
7 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202
8 (703) 872-9306.

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Paper No. 8

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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In re Application of
Dirk Kroselberg
Application No. 10/233,013
Filed: September 3, 2002
Attorney Docket No.: 1454.1330
Title: SYSTEM FOR NEGOTIATING SECURITY ASSOCIATION ON APPLICATION LAYER

DECISION ON RENEWED PETITION

This is a decision on the renewed petition under 37 CFR § 1.137(b)[1], filed March 5, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed October 1, 2002, which set a shortened statutory period for reply of two (2) months. The notice required the basic filing fee, a properly executed oath or declaration along with the surcharge associated with the late filing of an oath or declaration, and additional claim fees. 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 December 2, 2002.

The original petition was dismissed via the mailing of a decision on January 8, 2004.

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

With the renewed petition, petitioner has overcome the previously indicated deficiencies via the submission of an argument which has been deemed to be convincing coupled with the proper statement of unintentional delay.

As such, the petition is **GRANTED**.

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

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

Paul Shanoski
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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Paper No. 5

MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of :
Mintz, et al. :
Application No. 10/233,023 :
Filed: August 30, 2002 : DECISION ON PETITION
Attorney Docket No. 02-117-A :

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed May 16, 2003.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an international application filed on January 10, 2003. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the international application.

Applicant filed a "Request to Rescind Previous Nonpublication Request" on January 16, 2003 (Certificate of Mailing under 37 CFR 1.8 dated January 10, 2003, however, the rescission request was not eligible for the benefits of 37 CFR 1.8.[1]). Accordingly, as the rescission was not made until after the filing of the PCT application, applicant was required by 35 U.S.C. 122(b)(2)(B)(iii) to provide notice of the PCT filing not later than forty-five days after the date the PCT application was filed to avoid abandonment of the application.[2]

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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)", 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

[2] See id.

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. A Corrected Filing Receipt which sets forth a projected publication date of April 1, 2004 accompanies this decision.

The application file is being forwarded to Technology Center 3600, Group Art Unit 3628, for examination in due course.

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Corrected Filing Receipt (2 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE

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MBHB/TRADING TECHNOLOGIES
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SUITE 3200
CHICAGO IL 60606

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In re Application of	:	
Mintz, et al.	:	
Application No. 10/233,023	:	ON APPLICATION FOR
Filed: August 30, 2002.	:	PATENT TERM ADJUSTMENT
Atty Docket No.02-117-A	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed October 22, 2009, which is properly treated under 37 CFR 1.705(b). Applicants submits that the patent term adjustment to be indicated on the patent is one thousand, six hundred and fourteen (1,614) days, not one thousand, two hundred and sixty-two (1,262) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, 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].

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

---

[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.

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on July 11, 2008.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

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
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Paper No.

SNELL & WILMER
ONE ARIZONA CENTER
400 EAST VAN BUREN
PHOENIX, AZ 85004-0001

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AUG 2 5 2004

OFFICE OF PETITIONS

In re Application of
Minamiura et al.
Application No. 10/233,043
Filed: August 30, 2002
Atty Docket No. 29288.7900

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed May 24, 2004. Applicants state that a patent term adjustment of at least 4.5 months may be applicable to the subject application.

The request is **dismissed**.

Applicants are advised that § 1.705(b) provides the avenue before the Office for requesting reconsideration of the patent term adjustment indicated in the notice of allowance. See § 1.702-1.705. Moreover, § 1.705(b) provides that:

> An application for patent term adjustment under this section must be filed no later than the payment of the issue fee but may not be filed earlier than the date of mailing of the notice of allowance. An application for patent term adjustment under this section must be accompanied by:
>
> (1) The fee set forth in § 1.18(e) ...

The instant request was filed after the mailing of the notice of allowance and prior to payment of the issue fee. However, neither the fee under § 1.18(e) nor a general authorization to charge any required fees, accompanied the request. Accordingly, the request is dismissed for failure to comply with the requirement of paragraph (b)(1) to submit the fee under §1.18(e).

The Publishing Division has been advised of this decision and directed to go forward with processing of this application into a patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (703) 305-0309.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

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OFFICE OF PETITIONS

WITHROW & TERRANOVA, P.L.L.C.
P.O. BOX 1287
CARY, NC 27512

In re Application of
Najarian, et al.
Application No. 10/233,056
Filed: August 30, 2002
Docket No.: 2867-180
For: INTEGRATED GPS RECEIVER ARCHITECTURE

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 6, 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 legal representative of the deceased 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 30, 2002 without an executed oath or declaration. Accordingly, on January 16, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring, among other items, an executed oath or declaration and a surcharge.

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

The instant petition fails to satisfy items (1) and (4) set forth above.

As to item (1), petitioner has failed to sufficiently establish that despite diligent effort, the legal representative of the deceased inventor cannot be reached or located. The declaration of Jennifer Rush states the application papers were mailed to the last known address of the legal representative of the deceased inventor and that "the package containing the application and paperwork was returned to our office, marked "unclaimed" by the post office." Declarant further states no forwarding address was provided by the post office.

Where inability to reach or locate the legal representative of a deceased inventor is alleged, petitioner is required to establish that diligent effort was made to locate the legal representative of the deceased inventor, and provide the legal representative of the deceased inventor with a complete copy of the patent application (**specification, including claims, drawings, and oath or declaration)**. The declaration of Jennifer Rush fails to set forth details of any subsequent efforts to locate the legal representative of the deceased inventor.

Any renewed petition must be supported by evidence which sufficiently establishes that despite diligent effort, the legal representative of the deceased inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the legal representative of the deceased inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. At the very least, a search of the internet and telephone directories should be undertaken in regions where it is suspected the legal representative of the deceased inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

Moreover, while the petition alleges the legal representative of the deceased inventor cannot be located, a cursory review of the Lexis®.com EZFIND Combined Person Locator Nationwide database indicates JACQUIE S. BALODIS A.K.A. JACQUELINE S. BALODIS has more recently resided at the following address: **1930 S. Brea Canyon Road, Suite C270, Diamond Bar, CA 91765-4009**.

As to item (4), petitioner has failed to state the last known address of the legal representative of the deceased inventor.

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

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

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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OFFICE OF PETITIONS

WITHROW & TERRANOVA, P.L.L.C.
P.O. BOX 1287
CARY, NC 27512

In re Application of	:
Najarian, et al.	: DECISION GRANTING
Application No. 10/233,056	: STATUS UNDER 37 CFR 1.47(a)
Filed: August 30, 2002	:
Atty. Dkt. No.: 2867-180	:
For: INTEGRATED GPS RECEIVER	:
ARCHITECTURE	:

This decision is in response to the renewed petition under 37 CFR 1.47(a) filed May 19, 2003.

The petition is **GRANTED**.

Petitioner has shown that despite diligent effort, the legal representative of deceased inventor M. Balodis either cannot be reached or has refused to execute the declaration for 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 inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The required petition fee of $130.00 has been charged to Deposit Account No. 50-1732 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 regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JACQUELINE BALODIS
10332 HILL ROAD
GARDEN GROVE, CA 92640

In re Application of Najarian, et al. Application No.: 10/233,056 Filed: August 30, 2002 Atty. Dkt. No.: 2867-180 For: INTEGRATED GPS RECEIVER ARCHITECTURE	: LETTER	COPY MAILED JUL 0 1 2004 OFFICE OF PETITIONS

Dear Sir:

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

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

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

Telephone inquiries regarding this matter 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 OF PATENTS

August 26, 2005

Thomas R. Vigil
Welsh & Katz
120 South Riverside Plaza
22nd Floor
Chicago, Il 60606-3912

In re Application of:
Hermann Kopetz
Serial No.: 10/233,057 On Petition
Filing Date: August 20, 2002
For: **COMPUTER NODE ARCHITECTURE COMPRISING A DEDICATED MIDDLEWARE PROCESSOR**

In response to the petition received on May 13, 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 within the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed October 4, 2002. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned December 5, 2002.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts with the wrong serial number. The fees were returned to Deposit Account 23-0920. The fees for the above application will be charged to account 23-0920 for release to Technology Center 2152.

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

10/233,058

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-7-08

TO SPE OF : ART UNIT 1765

SUBJECT : Request for Certificate of Correction on Patent No.: 6837928

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.

Can this be approved

Thank You For Your Assistance

Ennis Young
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.

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

Comments:

DUANE SMITH
SUPERVISORY PATENT EXAMINER

SPE

1722
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

FRANK CHAU
F. CHAU & ASSOCIATES, LLP
SUITE 501
1900 HEMPSTEAD TURNPIKE
EAST MEADOW, NY 11554

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DEC 28 2004

OFFICE OF PETITIONS

In re Application of	:	
Ercan Ramazan et al	:	
Application No. 10/233,068	:	ON PETITION
Filed: August 31, 2002	:	
Attorney Docket No. 8074-18 (S1970 GC/STA)	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed December 30, 2003, which set a shortened statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 31, 2004.

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

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SEP 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Melvin J. Swanson et al :
Application No. 10/233,071 : DECISION ON PETITION
Filed: August 30, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 13288.9USI1 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 13, 2005, 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 on May 13, 2005.

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 with the instant petition cannot be entered since the continuation-in-part Application No. 09/670,766, filed September 27, 2000, went abandoned for failure to timely file a proper reply to the final Office action mailed March 5, 2002. Therefore, the prior-filed application was not pending when the instant application was filed. However, it would be proper for the instant nonprovisional application to claim the benefit of priority to the prior-filed nonprovisional Application No. 09/028,806, filed February 24, 1998.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition and a substitute application to correct the above matters 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

Any questions concerning this matter may be directed to Wan Laymon at (571) 272-3220.

Frances Hicks

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

UNITED STATES 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 31, 2007

Patent No. :6,798,806
Inventor :Johnson et al.
Patent Issued :September 28, 2004
Docket No. :V637-03250 US

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) 1.323.

Inspection of the application for the patent reveals, however, that in connection with applicants request to change the drawings from what appears in the Letters Patent is not warranted. Changes to drawings must be entered prior to paying the issue fee. Accordingly, with respect to the above, the drawings are in accordance with the records of this office.

In view of the forgoing, applicants' request is hereby denied.

Any inquiries concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308-9380 ext. 123

J. LaVar Olham, WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

CBN/arg

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P.O. Box 1450
Alexandria, VA 22313-1450
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Womble Carlyle Sandridge & Rice, PLLC
Oracle International Corporation
Attn: Patent Docketing 32nd Floor
Post Office Box 7037
Atlanta GA 30357-0037

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OFFICE OF PETITIONS

In re Application of

Marvin, et al.

Application No. 10/233,118

Filed: August 30, 2002

Attorney Docket No. 109870-130107

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 24, 2008, and in duplicate on September 30, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to file a proper and timely response to the final Office action mailed November 16, 2007, which set a shortened statutory period for reply of three-months from its mailing date. A response was filed on April 14, 2008, with a request for an extension of time within the second month. The response did not place the application in condition for allowance as indicted by a notice mailed August 20, 2008. The application became abandoned on April 17, 2008. A Notice of Abandonment was mailed September 17, 2008.

The Request for Continued Examination filed September 24, 2008, is noted.

The application file is being forwarded to Technology Center 3600, GAU 3621 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 0 1 2006

Catherine S. Collins
PO Box 888695
2851 Charlevoix Drive, SE
Grand Rapids, MI 49588-8695

In re Application of: THORNES	:
Appl. No.: 10/233,122	: DECISION ON PETITION
Filed: August 30, 2002	:
For: APPARATUS AND METHOD FOR FIXATION OF	:
ANKLE SYNDEMOSIS	:

This is a decision on the petition filed on October 10, 2005 by which petitioner requests withdrawal of the finality of the Office action dated August 10, 2005. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner urges reconsideration of the final rejection on the basis that the examiner promulgated a new grounds of rejection that was neither necessitated by the amendment of the claims nor based on information submitted in a Information Disclosure Statement filed during the period set forth in 37 CFR 1.97 (c) with the fee set forth in 37 CFR 1.17(p). Petitioner supports this allegation by noting in the first office action the Examiner rejected claims 2 – 20 under 35 USC 103(a) as being unpatentable over Bonutti '426 in view of Bonutti '986. In the amendment of May 23, 2005, the limitations of claim 2 were incorporated into claim 1. These claims were subsequently rejected under 35 USC 103(a) as being unpatentable over Bonutti '896 in view of Bonutti '073.

Review of the instant file indicates these statements to be true. Accordingly, the finality of the rejection mailed August 10, 2005 is withdrawn. The application is being forwarded to the Examiner of record for issuance of a new non-final office action The application is concurrently being forwarded to the Head Supervisory Applications Examiner to refund the $130.00 petition fee by crediting $130.00 to deposit account No. 22-0190.

PETITION GRANTED

Frederick R. Schmidt, Director
Technology Center 3700

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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QUALCOMM INCORPORATED
PATENT DEPARTMENT
5775 MOREHOUSE DRIVE G-215G
SAN DIEGO, CA 92121

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APR 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Douglas Rowitch :
Application No. 10/233,128 :
Filed: August 29, 2002 :
Attorney Docket No. 020023

ON PETITION

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

The petition is **GRANTED**.

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

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

The file will be forwarded to Technology Center AU 3662 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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GOODWIN PROCTER L.L.P
103 EISENHOWER PARKWAY
ROSELAND NJ 07068

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JUN 14 2004

OFFICE OF PETITIONS

In re Application of	:	
Weinberger et al.	:	
Application No. 10/233,135	:	ON PETITION
Filed: 30 August, 2002	:	
Docket No. 103832-432-NP	:	

This is a decision on the petition styled under 37 CFR 1.181, filed on 10 May, 2004, which is treated as a petition under 37 CFR 1.53(b), requesting that the above-identified application be accorded a filing date of 30 August, 2004, with Pages 27-36 and 43-81 of the specification as a part of the original disclosure.

The petition is **dismissed**.

On 30 August, 2002, the application was filed.

On 29 March, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Item(s) in a Nonprovisional Application stating that the application had been accorded a filing date of 30 August, 2002, but that Pages 27-36 and 43-81 of the specification (description and claims) appeared to have been omitted from the application. A two (2) month period for reply was set.

In response, on 10 May, 2004, the present petition was filed, accompanied by a copy of the specification and abstract. Petitioners apparently concede that Pages 27-36 and 43-81 were inadvertently omitted from the application as filed, but requests that the application, including Pages 27-36 and 43-81, be accorded a filing date of 30 August, 2002, because the application claims priority to provisional Application No. 60/317,102, which contains a foreign language specification, of which the original disclosure of the present application is an accurate translation.

Petitioners' argument has been considered, but is not persuasive. The U.S. Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. A review of the papers originally filed reveals

that, *inter alia*, Pages 1-26, 37-42, and 82-97 of the specification, including one (1) page of abstract were filed on 30 August, 2002. No Pages 27-36 and 43-81 were filed on 30 August, 2002, since no such pages of specification are present among the application papers received on that date. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. As petitioners concede that the omitted drawing figures were not in fact filed on 30 August, 2002, the application cannot be accorded a filing date of 30 August, 2002, with Pages 27-36 and 43-81 as a part of the original disclosure.

It is noted that the USPTO has a long-established and well publicized practice for *prima facie* establishing the date of receipt of correspondence that has either been mailed or otherwise delivered to the PTO, and is asserted to have been subsequently misplaced: the itemized postcard receipt practice of MPEP 503.[1] This practice requires that any paper(s) for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper(s). A postcard receipt which itemizes and properly identifies the paper(s) which is being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. However, due to the absence in the record of a postcard receipt itemized with respect to the specification that bears a USPTO date stamp of 30 August, 2002, showing that 97 pages of specification, including one page of abstract, were received in the USPTO on 30 August, 2002, the application cannot be accorded a filing date of 30 August, 2002, with Pages 27-36 and 43-81 as a part of the original disclosure.

Moreover, petitioners' assertion that the matter contained in Pages 27-36 and 43-81, which were omitted on filing and a part of a provisional application referenced in a preliminary amendment embodied in the application transmittal sheet, is a part of the original disclosure, is not persuasive. A review of the record reveals that the specification, as filed, consists of Pages 1-26, 37-42, and 82-97 written description and claims and one (1) page of abstract. The specification as filed, however, does not contain Pages 27-36 and 43-81. Clearly Pages 27-36 and 43-81 were intended to be a part of this application. Whether Pages 27-36 and 43-81 were a part of a copending application is not an issue

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[1] The public was afforded a "reminder" of the then extent post card receipt practice at 857 *Off. Gaz. Pat. Off.* 667 (*O.G.*) (Nov. 21, 1968). This specific notice is usually repeated annually, in a January "Consolidated Listing" section of the *O.G.* that contains important *O.G.* notices of continuing relevance.

here since the copending application was not specifically incorporated by reference into the disclosure of this application.[2] The mere reference to another application is not an incorporation of anything therein into the application containing the reference.[3] To allow one to retroactively incorporate by reference a second application into a first application would allow the addition of matter into an application that was not present on filing which would be contrary to our statutes and rules. Still further, the question of new matter is not an issue here. Pages 27-36 and 43-81 were simply not filed in the USPTO on 30 August, 2002. Matter included in Pages 27-36 and 43-81 may be submitted as an amendment for consideration by the examiner under MPEP sections 608.02(p) and 608.04. In view of the above, the application cannot be accorded 30 August, 2002, as the application filing date with Pages 27-36 and 43-81 as a part of the original disclosure.

The application will be processed and examined using only the application papers present on 30 August, 2002. The copy of the application papers and provisional application supplied with the present petition will not be used for processing or examination, but will be retained in the application file.

Since this petition was not necessitated by an error on the part of the USPTO, the petition fee will not be refunded.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 30 August, 2002, using the application papers filed on that date.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[2] See MPEP 608.01(p). It is noted that the preliminary amendment embodied in the transmittal sheet states only thiat the present application claims priority to provisional Application No. 60/317,102.

[3] See In re de Seversky, 177 USPQ 144, 146 (C.C.P.A. 1973); Dart Industries v. Banner, 207 USPQ 273, 276 (D.C. Cir. 1980).

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Paper No. 6

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MARCUS G THEODORE, PC
466 SOUTH 500 EAST
SALT LAKE CITY UT 84102

In re Application of :
Dusan J. Hvolka et al. :
Application No. 10/233,137 : DECISION ON PETITION
Filed: August 30, 2002 :
Title: TWO SPEED GEARBOX :

This is a decision on the petition filed June 21, 2004, under 37 C.F.R. §1.137(a)[1], to revive the above-identified application.

The above-identified application was filed on August 30, 2002. On October 4, 2002, applicant was mailed a "Notice to File Corrected Application Papers," requiring replacement drawings as the drawings which had been submitted on filing failed to contain acceptable margins. This Notice set a two-month period for reply. As no reply was received, the above-identified application became abandoned on December 5, 2002. A Notice of Abandonment was mailed June 14, 2004.

With the instant petition, Petitioner has submitted the required replacement drawings, as well as the petition fee.

Petitioner has met requirements (1) and (2) above. The fourth requirement is not applicable.

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).

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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 Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[2]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[3]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[4]

"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[5]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[6] The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[7]

Nonawareness of a PTO rule will not constitute unavoidable delay[8]The burden of showing the cause of the delay is on the person seeking to revive the application[9].

---

2 Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency's interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

3 Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

4 Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. 706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

5 Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

6 Id.

7 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

8 See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard

A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP is not rendered "unavoidable" due to either the applicant's reliance upon oral advice from USPTO employees or the USPTO's failure to advise the applicant to take corrective action[10].

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[11].

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[12]."

The portions of the CFR and the MPEP relevant to the abandonment of this application

37 C.F.R. § 1.8 sets forth, in part:

§ 1.8 Certificate of mailing or transmission.
(a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.
(1) Correspondence will be considered as being timely filed if:
(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or
(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and
(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.
(2) The procedure described in paragraph (a)(1) of this section does not apply to, and no benefit will be given to a Certificate of Mailing or Transmission on, the following:

---

earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

9 Id.

10 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).
11 In re Mattullath, 38 App. D.C. at (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).
12 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

(i) Relative to Patents and Patent Applications —

(A) The filing of a national patent application specification and drawing or other correspondence for the purpose of obtaining an application filing date, including a request for a continued prosecution application under §1.53(d);

(B) The filing of correspondence in an interference which an examiner-in-chief orders to be filed by hand or "Express Mail";

(C) The filing of agreements between parties to an interference under 35 U.S.C. 135(c);

(D) The filing of an international application for patent;

(E) The filing of correspondence in an international application before the U.S. Receiving Office, the U.S. International Searching Authority, or the U.S. International Preliminary Examining Authority;

(F) The filing of a copy of the international application and the basic national fee necessary to enter the national stage, as specified in §1.495(b).

.....

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

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

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

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

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

[41 FR 43721, Oct. 4, 1976; 43 FR 20461, May 11, 1978; para. (a). 47 FR 47381, Oct. 26, 1982, effective Oct. 26, 1982; para. (a),48 FR 2708, Jan. 20, 1983; para. (a) 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (a), 49 FR 5171, Feb. 6, 1985, effective Mar. 8, 1985; 52 FR 20046, May 28, 1987; subparas. (a)(2)(xiv)-(xvi), 54 FR 37588, Sept. 11, 1989, effective Nov. 16, 1989; revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; para. (a) revised, 61 FR 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (a)(2)(i)(A) & (b) revised; 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a)(2)(i)(F) revised, 67 FR 520, Jan. 4, 2002, effective Apr. 1, 2002]

Section 512 of the MPEP sets forth, in part:

Under 37 CFR 1.8, a person may state on certain papers directed to the Office (exceptions are stated in 37 CFR 1.8), the date on which the paper will be deposited in the United States Postal Service or transmitted by facsimile. If the date stated is within the period for reply, the reply in most instances will be considered to be timely. This is true even if the paper does not actually reach the Office until after the end of the period for reply. The Certificate of Mailing procedure does not apply to papers mailed in a foreign country.

The Certificate of Transmission procedure, however, also applies to papers transmitted to the Office from a foreign country provided that the correspondence being transmitted is not prohibited from being transmitted by facsimile and is not otherwise precluded from receiving the benefits under 37 CFR 1.8.

It should be noted, however, that the Office will continue its normal practice of stamping the date of receipt ("Office Date" Stamp) on all papers received through the mail or by facsimile except those filed under 37 CFR 1.10 (See MPEP § 513). The date stamped will also be the date which is entered on Office records and from which any subsequent periods are calculated. For example, 37 CFR 1.192 gives an appellant 2 months from the date of the appeal to file an appeal brief. For example, if the last day to reply to a final rejection was November 10, 1997, and applicant deposited a Notice of Appeal with fee in the U.S. mail on November 10, 1997, and so certified, that appeal is timely even if it was not received in the U.S. Patent and Trademark Office until November 16, 1997. Since the date of receipt will be used to calculate the time at which the brief is due, the brief was due on January 16, 1998. This is 2 months after the Mail Center date.

37 CFR 1.8(a)(2)(i)(A) specifically refers to a request for a continued prosecution application (CPA) filed under 37 CFR 1.53(d) as a correspondence filed for the purposes of obtaining an application filing date and the procedures and benefit set forth in 37 CFR 1.8(a)(1) are not applicable to a request for a CPA. The date on a certificate of mailing or transmission (37 CFR 1.8(a)) of a CPA is not controlling or even relevant. A CPA filed by facsimile transmission will not be accorded a filing date as of the date on the certificate of transmission unless Office records indicate, or applicant otherwise establishes pursuant to 37 CFR 1.6(f), receipt in the Office of the complete CPA on the date on the certificate of transmission and that date is not a Saturday, Sunday, or Federal holiday within the District of Columbia.

[41 FR 43721, Oct. 4, 1976; 43 FR 20461, May 11, 1978; para. (a). 47 FR 47381, Oct. 26, 1982, effective Oct. 26, 1982; para. (a),48 FR 2708, Jan. 20, 1983; para. (a) 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (a), 49 FR 5171, Feb. 6, 1985, effective Mar. 8, 1985; 52 FR 20046, May 28, 1987; subparas. (a)(2)(xiv)-(xvi), 54 FR 37588, Sept. 11, 1989, effective Nov. 16, 1989; revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; para. (a) revised, 61 FR 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (a)(2)(i)(A) & (b) revised; 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a)(2)(i)(F) revised, 67 FR 520, Jan. 4, 2002, effective Apr. 1, 2002]

Section 503 of the MPEP, entitled Application Number and Filing Receipt, sets forth, in part:

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 postcard 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.

37 C.F.R. § 1.134: Time period for reply to an Office action.

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

[47 FR 41276, Sept. 17, 1982, effective Oct. 1, 1982; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

37 CFR §1.135: Abandonment for failure to reply within time period.

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

Application of the standard to the current facts and circumstances

On October 4, 2002, applicant was mailed a "Notice to File Corrected Application Papers," which required replacement drawings, and gave a two-month period for response.

With the instant Petition, Petitioner sets forth that replacement drawings were submitted to the Office on "approximately October 15, 2002."

This argument is not persuasive.

The Patent Office file is the official record of the papers filed in this application. The official file has been reviewed, and the set of replacement drawings which was purportedly submitted on or about October 15, 2002, has not been located.

It is noted that Petitioner has submitted neither a postcard receipt to evince receipt of the drawings, nor a certificate of mailing pursuant to 37 C.F.R.§1.8 to establish that they were sent.

The PTO has a well established and well publicized practice of providing a receipt for papers filed in the PTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the PTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

Similarly, the PTO has a well established and well publicized practice by which practitioners may provide proof that papers were submitted to the Office on a particular date. Any papers which are required to be filed in the PTO within a set period of time will be considered as being timely filed if a certificate of mailing is properly prepared and executed. See 37 C.F.R. §1.8.

For these reasons, Petitioner is not able to characterize the abandonment as "unintentional."

It follows that the renewed petition must be **DISMISSED**.

Any request for a renewed petition under 37 C.F.R. §1.137(a) must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extension of time under 37 CFR 1.136(a) are permitted. The response should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a) *(or §1.137(b), if applicable)*". This is not a final agency action within the meaning of 5 U.S.C 704.

On renewed petition, Petitioner will need to furnish the evidence discussed above, in order to establish that that the replacement drawings were received by the Office, or at least sent to the same, on or around October 15, 2002.

Since Petitioner has provided neither of these forms of proof, and since Petitioner estimated the date on which the replacement drawings were sent, it appears that the Petitioner has neither, and cannot furnish the evidence which would be required in order to establish that the delay was unavoidable. If this is in fact the case, Petitioner may also wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b)[13].

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13 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

The renewed petition should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.

Any renewed petition may be submitted by mail[14], hand-delivery[15], or facsimile[16].

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

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

Paul Shanoski

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

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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.

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

15 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

16 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned.

UNITED STATES 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

MARCUS G THEODORE, PC
466 SOUTH 500 EAST
SALT LAKE CITY UT 84102

COPY MAILED
AUG 1 1 2004
OFFICE OF PETITIONS

In re Application of
Dusan J. Hvolka et al.
Application No. 10/233,137
Filed: August 30, 2002
Title: TWO SPEED GEARBOX

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR §1.137(b)[1], filed July 29, 2004, to revive the above-identified application.

The above-identified application was filed on August 30, 2002. On October 4, 2002, applicant was mailed a "Notice to File Corrected Application Papers," requiring replacement drawings as the drawings which had been submitted on filing failed to contain acceptable margins. This Notice set a two-month period for reply. As no reply was received, the above-identified application became abandoned on December 5, 2002. A Notice of Abandonment was mailed June 14, 2004.

On June 21, 2004, the original petition under 37 C.F.R. §1.137(a) was received, which was dismissed via the mailing of a decision on July 19, 2004 for failure to establish that the delay was unavoidable.

The fee for filing a petition to revive an unintentionally abandoned application under 37 C.F.R. §1.137(b) is set forth in 37 C.F.R. §1.17(m) as being $665.00 for a small entity. Petitioner included $655. Therefore, requirement number (2) has not been met.

---

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 (i.e. the period from August 31, 1995 until the filing of a grantable petition) 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.

The payment of the required petition fee is a prerequisite to the filing of a petition to revive under 37 C.F.R. §1.137. Therefore, consideration of the merits of the petition before receipt of the filing fee would be premature. See M.P.E.P. 711.03(c)(III)(B)[2]

In view of the above, this petition is **DISMISSED**.

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

The renewed petition should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.

Any renewed petition may be submitted by mail[3], hand-delivery[4], or facsimile[5].

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

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

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

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[2] "...[T]he payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application and cannot be waived. In addition, the phrase '[o]n filing' in 35 U.S.C. §41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 C.F.R. §1.137. See H.R. Rep. No. 542, 97th Cong., 2nd Sess. 6 (1082), *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...will not reach the merits of any petition under 37 C.F.R. §1.137 lacking the requisite petition fee."

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

4 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

5 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

UNITED STATES 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

MARCUS G THEODORE, PC
466 SOUTH 500 EAST
SALT LAKE CITY UT 84102

COPY MAILED
SEP 0 3 2004
OFFICE OF PETITIONS

In re Application of :
Dusan J. Hvolka et al. :
Application No. 10/233,137 : DECISION ON SECOND
Filed: August 30, 2002 : RENEWED PETITION
Title: TWO SPEED GEARBOX :

This is a decision on the second renewed petition under 37 CFR §1.137(b)[1], filed August 16, 2004, to revive the above-identified application.

The above-identified application was filed on August 30, 2002. On October 4, 2002, applicant was mailed a "Notice to File Corrected Application Papers," requiring replacement drawings as the drawings which had been submitted on filing failed to contain acceptable margins. This Notice set a two-month period for reply. As no reply was received, the above-identified application became abandoned on December 5, 2002. A Notice of Abandonment was mailed June 14, 2004.

On June 21, 2004, the original petition under 37 C.F.R. §1.137(a) was received, along with the required replacement drawings, which was dismissed via the mailing of a decision on July 19, 2004 for failure to establish that the delay was unavoidable.

Petitioner submitted a renewed petition under 37 C.F.R. §1.137(b) on July 29, along with the proper statement of unintentional delay, which was dismissed via the mailing of a decision on August 11, 2004, for failure to submit the petition fee in full.

With this second renewed petition, Petitioner has submitted the remainder of the petition fee.

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 (i.e. the period from August 31, 1995 until the filing of a grantable petition) 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.

As such, the renewed petition is **GRANTED**.

After this decision is mailed, the application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN P. O'BANION
O'BANION & RITCHEY LLP
400 CAPITOL MALL SUITE 1550
SACRAMENTO CA 95814

COPY MAILED

AUG 1 1 2005

OFFICE OF PETITIONS

In re Application of :
Michael D. LESH :
Application No. 10/233,158 :
Filed: August 30, 2002 :
Attorney Docket No. UCSF98-006-4 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed June 9, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely submit the issue and publication fees in a timely manner in reply to the Notice of Allowance mailed March 8, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 9, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue and publication fees; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

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

The application file is being referred to the Office of Patent Publication.

Frances Hicks
Frances Hicks
Lead Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

COPY MAILED

AUG 22 2003

OFFICE OF PETITIONS

In re Application of :
Marioara Mendelovici et al :
Application No. 10/233,190 :
Filed: August 29, 2002 :
Attorney Docket No. 1662/57902 :

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed by facsimile transmission on June 24, 2003, to change the order of the names of the inventors.

The petition is granted.

The order of the names of the inventors will be changed as follows:

1. Marioara Mendelovici
2. Tamar Nidam
3. Eduard Schwartz
4. Shlomit Wizel

A corrected filing receipt with the desired order of inventorship is enclosed.

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

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

Enclosure: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/12/07

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 6828319

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

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

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

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

Comments:

This Change does not introduce new matter and furthermore, does not change the scope or meaning of claims

C. S. Aulakh
CHARANJIT S. AULAKH, PH.D
PRIMARY EXAMINER

Thomas McKenzie
SPE

1625
Art Unit

10/233198 8-8-05

caf c

Express Mail No. EV 734136094 US
Attorney Docket No. 289591-122 US1

MYD

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PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.	6,828,319 B2	Art Unit:	1625
To:	Jagtap *et al.*	Examiner:	Charanjit Aulakh
Date Issued:	December 7, 2004	Conf. No.	1016
Docket No.	289591.122US1 (formerly 11078-025-999)	Cust. No.	28089
Title:	**SUBSTITUTED INDENO[1,2-c]ISOQUINOLINE DERIVATIVES AND METHODS OF USE THEREOF**		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
ATTN: Certificate of Correction Branch

Certificate
AUG 1 0 2005
of Correction

REQUEST FOR SECOND SUPPLEMENTAL CERTIFICATE OF CORRECTION UNDER 35 U.S.C. § 254 AND 37 C.F.R. §§ 1.322 AND 1.323

Patentees hereby request that a second supplemental certificate of correction be issued in the above-identified patent. The mistake to be corrected was incurred through the fault of the patentees or the United States Patent and Trademark Office.

This Certificate of Correction is requested to correct the following error:

Column 24, line 38, "chlorosulfonyl chloride" should read -- $ClSO_3H$ --; support for this correction can be found in the specification, for example, at column 16, Scheme 1, step 6.

Enclosed are two copies of a Certificate of Correction form suitable for printing, indicating the error and correction thereof. Applicants respectfully request that the attached Certificate of Correction be issued.

Please charge the required fee set forth in 37 C.F.R 1.20(a) to Deposit Account No. 08-0219.

08/08/2005 SSITHIB1 00000079 080219 6828319
01 FC:1811 100.00 DA

Respectfully submitted,
WILMER CUTLER PICKERING HALE AND DORR LLP
Matthew E. Langer Reg. No. 36,343
By: Kristin M. Foody Reg. No. 47,692

Date: August 5, 2005

Matthew E. Langer
Reg. No. 36,343

Wilmer Cutler Pickering Hale and Dorr LLP
399 Park Avenue
New York, New York 10022
Tel: (212) 937-7227
Fax: (212) 230-8888

US1DOCS 5229127v1

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO	:	**6,828,319 B2**	Page 1 of 1
DATED	:	**December 7, 2004**	
INVENTOR(S)	:	**Jagtap *et al.***	

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

Column 24, line 38 "chlorosulfonyl chloride" should read -- $ClSO_3H$ --.

MAILING ADDRESS OF SENDER:
PATENT NO. 6,828,319 B2

Wilmer Cutler Pickering Hale and Dorr LLP
399 Park Avenue
New York, New York 10022

No. of additional copies 0

US1DOCS 5229015v1

IFW

4-30-4

PTO/SB/83 (03-02)
Approved for use through 10/31/2002. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

1741

Pet. Dec.

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REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

OIPE C73 APR 2 8 2004 PATENT & TRADEMARK OFFICE

Application Number	10/233,208
Filing Date	September 22, 2002
First Named Inventor	David Montgomery
Group Art Unit	1741
Examiner Name	Not Yet Assigned
Attorney Docket Number	01665.0004.CNUS05

To: Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

I hereby apply to withdraw as attorney or agent for the above identified patent application.

The reasons for this request are: In-house counsel will handle further prosecution.

Approved JUL - 6 2004
JMStone
Jacqueline M. Stone, Director
Technology Center 1700
JUL - 6 2004

1. ☐ The correspondence address in NOT affected by this withdrawal.

2. ☒ Change the correspondence address and direct all future correspondence to:

CORRESPONDENCE ADDRESS

☐ Customer Number [ ] → *Place Customer Number Bar Code Label here*

OR

☒ Firm or Individual name	Jeff Oster, Esq, Sr. V.P. Intellectual Property and Assistant General Counsel				
Address	COMBIMATRIX CORPORATION				
Address	6500 Harbour Heights Pkwy, Suite 301				
City	Mukilteo	State	WA	ZIP	98275
Country	USA				
Telephone	425-493-2000	Fax	425-493-2010		

☒ This request is made on behalf of myself 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 ____

This request is enclosed in triplicate (including any attachments).

Name	Albert P. Halluin / Adam K. Whiting
Signature	Albert P. Halluin
Date	April 28, 2004

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

Burden Hour Statement. This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

IFW 1.6 4-30-4 1741

PTO/SB/83 (03-02)
Approved for use through 10/31/2002. 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.

OIPE APR 2 8 2004 PATENT & TRADEMARK OFFICE

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

Application Number	10/233,209
Filing Date	September 22, 2002
First Named Inventor	David Montgomery
Group Art Unit	1741
Examiner Name	Not Yet Assigned
Attorney Docket Number	01665.0004.CNUS04

To: Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

I hereby apply to withdraw as attorney or agent for the above identified patent application.

The reasons for this request are: In-house counsel will handle further prosecution.

Approved
JMStone
Jacqueline M. Stone, Director
Technology Center 1700
SEP - 2 2004

1. ☐ The correspondence address in NOT affected by this withdrawal.

2. ☒ Change the correspondence address and direct all future correspondence to:

CORRESPONDENCE ADDRESS

☐ Customer Number [ ] → *Place Customer Number Bar Code Label here*

OR

☒ Firm or Individual name	Jeff Oster, Esq, Sr. V.P. Intellectual Property and Assistant General Counsel				
Address	COMBIMATRIX CORPORATION				
Address	6500 Harbour Heights Pkwy, Suite 301				
City	Mukilteo	State	WA	ZIP	98275
Country	USA				
Telephone	425-493-2000	Fax	425-493-2010		

☒ This request is made on behalf of myself 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 ____

This request is enclosed in triplicate (including any attachments).

Name	Albert P. Halluin / Adam K. Whitney
Signature	Albert P. Halluin
Date	April 28, 2004

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

Burden Hour Statement. This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20051206

DATE : December 6, 2005

TO SPE OF : ART UNIT 1734

SUBJECT : Request for Certificate of Correction on Patent No.: 6764567

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 changes requested under (56) of the Title Page which applicant attributes to the PTO do not apply. Applicant requests adding references listed on the IDS filed 24 May 2004. These references were not considered, because the IDS was filed after payment of the Issue Fee.

SPE: Christopher A. Fiorilla **Art Unit** 1734

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Baker Botts, LLP
Patent Department
98 San Jacinto Boulevard
Suite 1500
Austin, TX 78701-4039

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JUN 0 5 2008

OFFICE OF PETITIONS

In re Application of :
Werner Schropp et al. :
Application No. 10/233,215 : ON PETITION
Filed: September 3, 2002 :
Attorney Docket No. 071308.0329 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, January 25, 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 April 26, 2007. A Notice of Abandonment was mailed on September 27, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

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 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.

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

This application is being referred to Technology Center AU 2618 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.

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
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Hewlett-Packard Company
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

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OFFICE OF PETITIONS

In re Application of	:	
Snider et al.	:	
Application No. 10/233,232	:	DECISION ON PETITION
Filed: August 30, 2002	:	
Attorney Docket No. 20026066-1	:	

This is a decision on the petition under 37 CFR 1.181, filed August 17, 2004, to withdraw the holding of abandonment for the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience to petitioners.

On September 29, 2003, the Office mailed a Restriction Requirement, which set a one-month extendable period for reply. In the apparent absence of a timely filed response, the Office mailed a Notice of Abandonment on August 6, 2004.

In the present petition, petitioners asserted that they filed a timely reply in response to the Restriction Requirement. After reviewing the record, the Office has located the "Response to Restriction Requirement," filed October 27, 2003. Accordingly, the petition under 37 CFR 1.181 is **GRANTED**. As no petition fee is required, the Office will refund the $130.00 petition fee to the Deposit Account.

This matter is being referred to Technology Center 2812 for consideration of the "Response to Restriction Requirement," filed October 27, 2003.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

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

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AUG 15 2007
OFFICE OF PETITIONS

In re Application of

Douglas M. Arm :

Application No. 10/233,254

: DECISION ON PETITION

Filed: August 8, 2002

:

Attorney Docket No. 5490-000527/COA

This is a decision on the petition under 37 CFR 1.137(b), filed May 21, 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 *Ex Parte Quayle* action mailed June 28, 2006, which set a shortened statutory period for reply of two (2) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on August 29, 2006. A Notice of Abandonment was mailed on May 3, 2007

The amendment filed May 21, 2007, is noted and made of record.

The application is being forwarded to Technology Center 3700, GAU 3767 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

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DEC 17 2003

OFFICE OF PETITIONS

BINGHAM, MCCUTCHEN LLP
THREE EMBARCADERO, SUITE 1800
SAN FRANCISCO CA 94111-4067

In re Application of:
Vladimir Bronstein
Application No. 10/233,259
Filed: August 30, 2002
Attorney Docket No. NET-004 US 24677-7020
Title: TRANSPARENT VARIABLE STATE MIRRORING

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

This is a decision on the petition filed on October 21, 2003, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner states that the instant nonprovisional application is the subject of an application filed in either a foreign or an international application on August 30, 2003. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

either a foreign application or an application under a multilateral international agreement that requires publication of applications 18 months after filing.

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

Petitioner has submitted the notification of either a foreign or an international filing, paid the petition fee, and has made the proper statement of unintentional delay.

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

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i), filed with the original application papers, has been rescinded.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i), filed with the original application papers, has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of March 18, 2004 accompanies this decision on petition.

After this decision is mailed, the application will be forwarded to Technology Center 2100 for further processing.

Telephone inquiries concerning *this decision* should be directed to Attorney Paul Shanoski at (703) 305-0011.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DOUGLAS W. WYATT
WYATT, GERBER & O'ROURKE, LLP
99 PARK AVENUE
NEW YORK, NY 10016

MAILED

FEB 0 2 2010

OFFICE OF PETITIONS

In re Patent No. 6,938,380
Issue Date: September 6, 2005
Application No. 10/233,277
Filed: September 3, 2002
Attorney Docket No.

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed November 20, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on September 6, 2009 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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 undersigned at (571) 272-1642.

The patent file is being forwarded to Files Repository.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCT - 2 2003

WAK
PAPER NO. 9

In re Application of	:	
Martin Utz et al.	:	DECISION
Serial No. 10/233,283	:	ON
Filed: august 28, 2002	:	PETITION
For: CARD SHEET CONSTRUCTION	:	UNDER 708.02, VIII

This is in response to the petition filed July 18, 2003, requesting that the above-identified application be granted Special Status. The petition has been considered under Section 708.02 (VIII) of the MPEP and 37 CFR 1.102(d) (fee paid).

MPEP Section 708.02, VIII(C) requires that a pre-examination search be made; this search should cover all areas searchable by the examiner. A search made by a foreign patent office satisfies this requirement.

Accordingly, the petition is **GRANTED.**

The restriction requirement mailed September 17, 2003 has been vacated.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Douglas N. Larson
Squire, Sanders & Dempsey L.L.P.
801 south Figueroa Street, 14th Floor
Los Angeles, California 90017-5554

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DOUGLAS N. LARSON, ESQ.
SQUIRE, SANDERS & DEMPSEY
801 S. FIGUEROA STREET - 14TH FLOOR
LOS ANGELES CA 90017-5554

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AUG 0 1 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Martin Utz et al	:	
Application No. 10/233,283	:	
Filed: August 28, 2002	:	
Attorney Docket No. 11286-01156	:	

This is a decision on the petition, filed July 29, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on February 8, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1772 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/15/10

TO SPE OF : ART UNIT 1794

SUBJECT : Request for Certificate of Correction for Appl. No.: 10233283 Patent No.: 7514134

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

- ☑ **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** 1794

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-145

NOV 22 2004

LEWIS MORGAN
2 Palo Alto Square
3000 El Camino Real
Suite 700
Palo Alto, CA 94306

MAILED

NOV 22 2004

OFFICE OF THE DIRECTOR
TC 3600

In re application of
Stephen J. Brown
Application No. 10/233,296 :
Filed: August 30, 2002 :
For: MULTI-USER REMOTE HEALTH MONITORING SYSTEM WITH BIOMETRICS SUPPORT :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on October 22, 2004,under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**

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 A) and B) above.

As to condition A), each attorney must sign or a clear indication of one signing on behalf of the others is required. Specifically, at least attorneys Sanjeet Dutta, Richard A. Nakashima, Andre L. Marais, James H. Salter and Kerry D. Tweet are all listed on the original Power of Attorney but are not included in the list of the withdrawing attorneys. If only the attorneys listed in the request are to have power withdrawn and the remaining attorneys are intended to remain having power of attorney for this case, this needs to be made clear in any supplemental request; otherwise the other attorneys, or a statement that all attorneys of record, would need to be added to the request.

As to condition B), a proper reason for withdrawal as enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 11/08/04

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

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OFFICE OF PETITIONS

In re Application of :
Wu :
Application No. 10/233,306 : DECISION
Filed: 30 August, 2002 :
Attorney Docket 016491-004120US :

This is a decision on the petition filed on 19 July, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

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

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, no terminal disclaimer and fee are due here.)

It appears that Petitioner has satisfied the requirements of the regulation, to wit:

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 16 March, 2007, with reply due under a non-extendable deadline on or before Monday, 18 June, 2007.

The application went abandoned by operation of law after midnight 18 June, 2007.

The Office mailed a Notice of Abandonment on 11 July, 2007.

On 19 July, 2007, Petitioner filed the instant petition with fee and, *inter alia*, a reply in the form of an amendment, and made a proper statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

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

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

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

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

CONCLUSION

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

The instant application is released to Publications Branch to be processed into a patent in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Publications Branch in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[9] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Peter G. Pappas
SUTHERLAND ASBILL & BRENNAN LLP
999 Peachtree Street, NE
Atlanta, GA 30309-3996

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FEB 23 2004

OFFICE OF PETITIONS

In re Application of
Mark Rule, et al.
Application No. 10/233,332
Filed: August 30, 2002
Attorney Docket No. 25040-0341

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 30, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center AU 1711 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 : February 20, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Mark Rule, et al.
Application No. : 10/233,332
Filed : August 30, 2002

The above-identified application has been assigned Patent No. 6,699,547 and an issue date of March 2, 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 March 2, 2004:

> "All reference to Patent No. 6, 699,547 to MARK RULE, ET AL. of GEORGIA for POLYESTER COMPOSITION AND ARTICLES WITH REDUCED ACETALDEHYDE CONTENT AND METHOD USING HYDROGENATION CATALYST appearing in the Official Gazette of March 2, 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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Sutherland
Asbill & Brennan LLP
ATTORNEYS AT LAW

999 Peachtree St., N.E.
Atlanta, GA 30309-3996
tel 404.853.8000
fax 404.853.8806
www.sablaw.com

Facsimile

CONFIDENTIAL

Date: January 30, 2004 **Pages (including cover):** 3

TO:

Recipient Name	Firm/Company	Fax	Telephone
U.S. Patent and Trademark Office		703.872.9306	

FROM: PETER G. PAPPAS **Email address:** pete.pappas@sablaw.com
Telephone: 404.853.8064 **User number:** 1293 **Client number:** 25040-0341

DOCUMENT(S):

SPECIAL PROCEDURES SUBMISSION

PETITION TO WITHDRAW APPLICATION FROM ISSUE UNDER 37 C.F.R.§1.313(C) TO PERMIT CONSIDERATION OF NEW ART IN A CONTINUED EXAMINATION APPLICATION.

This message is intended only for the use of the individuals or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination or distribution of this communication to other than the intended recipient is strictly prohibited. If you have received this communication in error, please notify us immediately by collect telephone at 404.853.8813 and return the original message to us at the above address via the U.S. Postal Service. Thank you.

PAGE 1/3 * RCVD AT 1/30/2004 4:44:14 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/2 * DNIS:8729306 * CSID:4048538806 * DURATION (mm-ss):01-12

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FEB 0 2 2004

SPECIAL PROCEDURES SUBMISSION

Patents

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	
Mark Rule et al.	Art Unit: **1711**
Serial No. **10/233,332**	Examiner: **Samuel A. Acquah**
Filed: **August 30, 2002**	
For: **Polyester Composition and Articles With Reduced Acetaldehyde Content and Method Using Hydrogenation Catalyst**	

PETITION TO WITHDRAW APPLICATION FROM ISSUE UNDER 37 C.F.R. §1.313(C) TO PERMIT CONSIDERATION OF NEW ART IN A CONTINUED EXAMINATION APPLICATION

Via Facsimile
Office of Petitions

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

Sir:

The applicant hereby petitions the Office to withdraw the above-identified application from issue to permit consideration of an Information Disclosure Statement under 37 C.F.R. § 1.97 in this Continued Examination Application. The Commissioner is hereby

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the U.S. Patent and Trademark Office, Fax No. 703.872.9306 on January 30, 2004.

Peter G. Pappas, Reg. No. 33205

02/30/2004 SKELLEY 00000039 193029 10233332
01 FC:1460 130.00 OP

AO 1066331.1

PAGE 2/3 * RCVD AT 1/30/2004 4:44:14 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/2 * DNIS:8729306 * CSID:4048538806 * DURATION (mm-ss):01-12

authorized to charge Deposit Account No. 19-5029 in the amount of $130.00 to cover the required fee as set forth in 37 C.F.R. § 1.17(h). It is believed that no additional fee is required with this submission. However, should an additional fee be required, the Commissioner is hereby authorized to charge any such additional fees to Deposit Account No. 19-5029.

The reason for the present Petition is a need for consideration in this continued examination application of new prior art references, which came to the applicant's attention in an international search report mailed November 24, 2003, in corresponding PCT application No. PCT/US03/24670. These references are material because some of them are considered category "X" references by the European Patent Office meaning that they are relevant to the novelty of the claimed invention. The issue fee in this application was mailed to the office on November 4, 2003 so there was no opportunity for Applicant to submit the EPO search report and cited references before the payment of the issue fee.

A Request for Continued Examination under 37 C.F.R. §1.114 and an Information Disclosure Statement along with the PTO Form 1449 and references are filed concurrently herewith via United States Postal Service Express Mail.

In view of the foregoing, the applicant requests that this petition be granted.

Respectfully submitted,

SUTHERLAND ASBILL & BRENNAN LLP

By: Peter G. Pappas

SUTHERLAND ASBILL & BRENNAN LLP
999 Peachtree Street, NE
Atlanta, Georgia 30309-3996
Telephone: (404) 853-8000
Facsimile: (404) 853-8806
Attorney Docket No.: 25040-0341

PAGE 3/3 * RCVD AT 1/30/2004 4:44:14 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/2 * DNIS:8729306 * CSID:4048538806 * DURATION (mm-ss):01-12

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JHK LAW
P.O. BOX 1078
LA CANADA, CA 91012-1078

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OFFICE OF PETITIONS

In re Application of	:	
Bamada, Cynthia C.	:	
Application No. 10/233,334	:	DECISION ON PETITION
Filed: August 30, 2002	:	
Attorney Docket No. M01015/70080 TJO	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 28, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, 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). Accordingly, since the $525.00 extension of time fee submitted with the petition on December 28, 2007, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card in due course.

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

This matter is being referred to Technology Center 1641 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/233,342	09/03/2002	Donnie Rudd	RU-3

CONFIRMATION NO.
6740

LADAS & PARRY
224 SOUTH MICHIGAN AVENUE, SUITE 1200
CHICAGO IL 60604

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c) for express abandonment to avoid publication of the above-identified application, for which a faxed copy of the original petition was received on February 11, 2004.

The petition is dismissed.

The express abandonment will **not** be recognized because the petition under 37 CFR 1.138(c) was not received in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

The application will be published as scheduled.

Telephone inquiries should be directed to the Office of Patent Publication, the Pre-Grant Publication Division, at 703-605-4283.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

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
10/233,343	09/03/2002	Donnie Rudd	RU-3

CONFIRMATION NO.
6739

W. Dennis Drehkoff
Ladas & Parry
224 South Michigan Ave
Chicago IL 60604

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c) for express abandonment to avoid publication of the above-identified application, for which a faxed copy of the original petition was received on February 11, 2004.

The petition is dismissed.

The express abandonment will **not** be recognized because the petition under 37 CFR 1.138(c) was not received in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

The application will be published as scheduled.

Telephone inquiries should be directed to the Office of Patent Publication, the Pre-Grant Publication Division, at 703-605-4283.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

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
10/233,344	09/03/2002	Donnie Rudd	RU-2

CONFIRMATION NO.
6971

W. Dennis Drehkoff
Ladas & Parry
224 South Michigan Ave
Chicago IL 60604

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c) for express abandonment to avoid publication of the above-identified application, for which a faxed copy of the original petition was received on February 11, 2004.

The petition is dismissed.

The express abandonment will **not** be recognized because the petition under 37 CFR 1.138(c) was not received in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

The application will be published as scheduled.

Telephone inquiries should be directed to the Office of Patent Publication, the Pre-Grant Publication Division, at 703-605-4283.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 2 3

Office of [illegible]

RODNEY A. CORL
2338 CATAWBA RD.
TROUTVILLE, VA 24175

In re Application of Hubert O. Wills Application No. 10/233,365 Filed: September 3, 2002 For: PEST TRAP	: : : :	DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition to withdraw the holding of abandonment filed January 29, 2004.

The petition is **DISMISSED.**

A review of the file record reveals that an Office action was mailed to applicants on May 13, 2003. Since a response was not received before the expiration of the six month statutory period for reply, the application was held abandoned, and a Notice to that effect was mailed on December 16, 2003.

Applicants' petition submits a statement that the Office action mailed May 13, 2003 was not received.

There is a strong presumption that Office communications properly addressed and delivered to the United States Postal Services, are in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of August 13, 2003. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993). The petitioner has failed to comply with requirement (3) indicated above.

As to requirement (3) the docket record submitted is that of the above referenced application. To satisfy requirement (3) above a docket record showing all actions due by Rodney A. Corl at and around the due date of August 13, 2003 needs to be supplied.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Steven Meyers, Special Program Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/cps: 2/18/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUN 1 2004

Office of the Director
Group 3600

RODNEY A. CORL
2338 CATAWBA RD.
TROUTVILLE, VA 24175

In re Application of
Hubert O. Wills
Application No. 10/233,365
Filed: September 3, 2002
For: PEST TRAP

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in response to applicant's renewed petition to withdraw the holding of abandonment filed April 19, 2004.

The petition is **DISMISSED**.

A review of the file record reveals that an Office action was mailed to applicants on May 13, 2003. Since a response was not received before the expiration of the six month statutory period for reply, the application was held abandoned, and a Notice to that effect was mailed on December 16, 2003.

Applicant states that the Office action mailed May 13, 2003 was not received.

There is a strong presumption that mail properly addressed and delivered to the United States Postal Service was in fact delivered to the addressee. An allegation that an Office communication was not received may be considered in a formal petition for the withdrawal of the holding of abandonment, in accordance with *Delgar Inc. v. Schuyler*, 172 USPQ 513. However, the presumption that the Office communication was delivered to applicant may be overcome by a showing that the communication was not, in fact, received as indicated below.

In view of Mr. Corl's comments regarding his practice, the statement of non-receipt should include a statement by him, and by anyone else at the correspondence address of record at the time of mailing, who would have handled the Office communication, and include any available documentary evidence of mail received, covering a reasonable period after the date of the Office communication, to show non-receipt of the communication in question. A description of the manner in which mail is normally received and subsequently entered into the appropriate file is required. Copies of records on which the receipt date of the Office communication would have been entered had it been received, (*e.g.*, a copy of the outside of the file maintained by applicant), are required if available. Also, a showing of any docket records *or other method* which would serve as a reminder of a response due date should be submitted. Whatever method applicant uses as a reminder, and submits in response to this decision, should be adequately explained. Also, a statement is required that a search of the file maintained by applicant, or any other location where correspondence from the USPTO is

kept, including the other pending application files, failed to find a copy of the Office communication in question. Finally, applicant must state that he was in fact at the correspondence address of record at the time the Office action would have been received.

Any exhibits in support of the above requirements should be submitted as part of statement(s) showing that no Office communication was ever received.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

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

KJD/mjz: 5/20/04

UNITED STATES PATENT AND TRADEMARK OFFICE

#12

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

OCT 07 2004

TECHNOLOGY CENTER 3600

Rodney A. Corl
2338 Catawba Rd.
Troutville, VA 24175

In re Application of
Hubert O. Wills
Application No. 10/233,365
Filed: September 3, 2002
For: PEST TRAP

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in reply to applicant's renewed petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office on June 17, 2004.

The petition is **GRANTED**.

A review of the file record reveals that an Office action was mailed to applicant at the address of record on May 13, 2003. Since a response was not received, the application was held abandoned and a Notice to that effect was mailed December 16, 2003.

There is a strong presumption that mail properly addressed and delivered to the United States Postal Service was in fact delivered to the addressee. An allegation that an Office communication was not received may be considered in a formal petition for the withdrawal of the holding of abandonment, in accordance with *Delgar Inc. v. Schuyler*, 172 USPQ 513. However, the presumption that the Office communication was delivered to applicant may be overcome by a showing that the communication was not, in fact, received as indicated below.

In view of Mr. Corl's comments regarding his practice, the statement of non-receipt should include a statement by him, and by anyone else at the correspondence address of record at the time of mailing, who would have handled the Office communication, and include any available documentary evidence of mail received, covering a reasonable period after the date of the Office communication, to show non-receipt of the communication in question. A description of the manner in which mail is normally received and subsequently entered into the appropriate file is required. Copies of records on which the receipt date of the Office communication would have been entered had it been received, (*e.g.*, a copy of the outside of the file maintained by applicant), are required if available. Also, a showing of any docket records *or other method* which would serve as a reminder of a response due date should be submitted. Whatever method applicant uses as a reminder, and submits in response to this decision should be adequately explained. Also, a statement is required that a search of the file maintained by applicant, or any other location where correspondence from the USPTO is kept, failed to find a copy of the Office communication in question. Finally, applicant must state that she was in fact at the correspondence address of record at the time the Office action would have been received.

Any such exhibits should be submitted as part of statement(s) showing that no Office communication was ever received.

The renewed petition includes a statement by Mr. Corl that he was in fact in residence at the correspondence address of record where the Office action should have been received at the time the action was mailed. The renewed petition also includes a description of the manner in which mail is normally received and a statement by anyone else at the correspondence address of record who would have handled the Office communication. Applicant's statements regarding the non-receipt of the Office action mailed May 13, 2003 are acceptable.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment, return the application to pending status, and to redate and remail the Office Action of April 30, 2003 based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.

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

RAR/vdb: 9/7/04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20050314

DATE : March 14, 2005

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 6743919

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 claim was originally presented with the "D" ring in it. This is not a misprint.

Cecelia Tsang

SPE: Cecelia Tsang **Art Unit** 1625

PRINTER'S TRIM LI

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

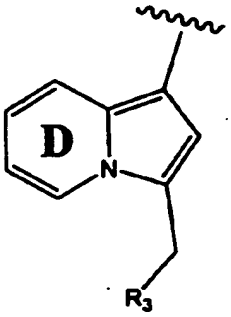
PATENT NO. : 6,743,919 B2

DATED : June 1, 2004

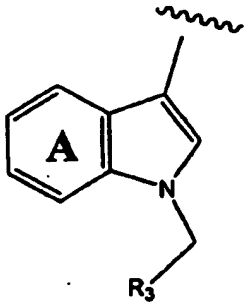
INVENTOR(S) : Keizo Koya, Lijun Sun, Mitsunori Ono, David James, Weiwen Ying and Shoujun Chen

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

In Claim 43, at Col. 63, line 39:



should be deleted and replaced with --



MAILING ADDRESS OF SENDER:

021005
Hamilton, Brook, Smith & Reynolds, P.C.
530 Virginia Road, P.O. Box 9133
Concord, Massachusetts 01742-9133

PATENT NO. 6,743,919 B2

No. of add'l copies @ 50¢ per page

FORM PTO 1050 (Rev. 2-93)

Denied.

Do not issue Cert of Correction.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Sequence Controls Inc.
150 Rosamond Street
Carleton Place ON K7C 1V2 CA
CANADA

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OFFICE OF PETITIONS

In re Application of	:	
William Henry Kemp	:	
Application No. 10/233,387	:	ON PETITION
Filed: September 3, 2002	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on September 23, 2004, to revive the above-identified application. The delay in responding is regretted.

The application became abandoned for failure to timely reply to the non-final Office action mailed September 5, 2003. A Notice of Abandonment was mailed May 20, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response/specification; (2) the petition fee of $665; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3744, for review of the response 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

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

MAILED

MAY 26 2010

OFFICE OF PETITIONS

In re Patent of Feng et al.	:	
Patent No. 6,883,648	:	
Issue Date: April 26, 2005	:	Letter
Application No. 10/233,413	:	
Filing Date: September 4, 2002	:	
Attorney Docket No. 0373-0262M	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c) filed January 13, 2010.

The deficiency payment of $1,340 is hereby accepted.

The change of status to large entity has been entered and made of record.

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

Mitchell W. Shapiro
Miles & Stockbridge P.C.
Suite 500
1751 Pinnacle Drive
McLean, VA 22102-3833

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NOV 14 2002

OFFICE OF PETITIONS

In re Application of
Noguchi et al.
Application No. 10/233,432
Filed: September 4, 2002
Attorney Docket No.: XA-9338J

ON PETITION

This is a decision on the petition filed October 16, 2002, requesting that the above-identified application be accorded a filing date of September 4, 2002 with figure 15(a) and 15(b) as part of the original application disclosure.

The application was filed on September 4, 2002. However, on September 26, 2002, the Office of Initial Patent Examination mailed the Notice stating that the application had been accorded a filing date of September 4, 2002 and advising applicant that figure 15 described in the specification appeared to have been omitted.

In response, the present petition was filed on October 16, 2002 wherein petitioner contends figures 15(a) and 15(b) was filed September 4, 2002. In support, the petition is accompanied by a copy of applicant's return postcard which lists "49 sheets of drawings (figs. 1-58)". The petition is further accompanied by a substitute drawing of figures 15(a) and 15(b).

Applicant's postcard receipt is prima facie evidence that 49 sheets of drawings including 1 sheet containing figures 15(a) and 15(b) were received on September 4, 2002, but figures 15(a) and 15(b) are 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 15(a) and 15(b) were received on September 4, 2002, as shown in counsel's file, and later misplaced in the office.

The petition is Granted.

Since the original figures 15(a) and 15(b) cannot be located in the Office, figures 15(a) and 15(b) supplied on October 16, 2002, will be used for processing and examination purposes.

No petition fee has been charged.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of September 4, 2002, using the 1 sheet of substitute drawing including figures 15(a) and 15(b) supplied on October 16, 2002.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

for D Wood

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 102103

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street, Suite 1800
Arlington, VA 22209-9889

OCT 23

In re Application of:	:	
Martin S. Denham	:	
Serial No.: 10/233,444	:	DECISION ON REQUEST
Filed: September 04, 2002	:	TO WITHDRAW FROM RECORD
Attorney Docket No.: **219.36991VX1**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed August 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 Paul J. Skwierawski, on behalf of himself and all the attorneys of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys of record at this time.

All future communications from the Office will continue to be directed to Grace Abercrombie, at the below address until otherwise notified by applicant.

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

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

cc: Grace Abercrombie
Blakely, Sokoloff, Taylor & Zafman LLP
1279 Oakmead Parkway
Sunnyvale, CA 94086

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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HOXIE & ASSOCIATES LLC
75 MAIN STREET , SUITE 301
MILLBURN, NJ 07041

Mail Date: 04/21/2010

Applicant	: Paul Greengard	: DECISION ON REQUEST FOR
Patent Number	: 7427485	: RECALCULATION of PATENT
Issue Date	: 09/23/2008	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/233,448	: OF WYETH
Filed	: 09/03/2002	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper 5

U.S. Philips Corporation
580 White Plains Road
Tarrytown, NY 10591

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APR 0 4 2003

OFFICE OF PETITIONS

In re Application of
Chi-Fan et al.
Application No.10/233,452
Filed: September 4, 2002
Attorney Docket No. TW 010008

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.47(a) filed March 4, 2003 (certificate of mailing February 24, 2003).

The petition under 37 CFR 1.47(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(b)". This is **not** final agency action within the meaning of 5 U.S.C. §704.

The above-identified application was filed on September 3, 2002, without an executed oath or declaration. Accordingly, on September 27, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a $130.00 surcharge for its late filing.

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 three (3) month extension of time was also submitted. In support of the petition, applicants submitted a Declaration of facts by Jacqueline Lanslots and a copy of correspondence sent to inventor Chen. Pursuant to petitioner's request deposit account 14-1270 has been charged the $130.00 petition fee pursuant to 37 CFR 1.17(h).

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

The instant petition does not satisfy requirements (1).

As to item (1), rule 47 applicant has failed to provide sufficient evidence to establish "diligent effort" was made to locate inventor Chen. The declaration of Ms Lanslots

states multiple attempts were made to contact inventor Chen at his last known address and via the internet. However, more specific information about such efforts are required. Besides the mailing on January 15, 2003 what other steps were taken to locate the inventor. Were former co-workers contacted for forwarding information? 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. Rule 47 applicant indicates an internet search was conducted, the results of the search should be submitted for evidence. 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 papers (specification, claims and drawings).

If rule 47 applicant does locate inventor Chen, a supplemental declaration (37 CFR 1.67) or a Information data sheet (37 CFR 1.67 (a)(3)) may be required to include inventor Chen's current address.

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

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

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

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

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 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 No. 7

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JUN 1 3 2003

OFFICE OF PETITIONS

PHILIPS ELECTRONICS NORTH AMERICAN CORP
580 WHITE PLAINS RD
TARRYTOWN, NY 10591

In re Application of
Chi-Fan Ho and Tsuang-Hao Chen
Application No.10/233,452
Filed: September 3, 2002
Attorney Docket Number: TW 010008
Title of Invention: DEVICE FOR USE IN A NETWORK ENVIRONMENT

ON RENEWED PETITION

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

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

This application will be 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
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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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OCT 04 2007

OFFICE OF PETITIONS

In re Application of	:	
Peter HANK et al	:	
Application No. 10/233,460	:	DECISION ON PETITION
Filed: September 3, 2002	:	
Attorney Docket No. PHDE 010246	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 31, 2007, to revive the above-identified application.

The petition is **DISMISSED.**

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 20, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on July 21, 2006. A Notice of Abandonment was mailed on November 20, 2006.

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

37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition fails to satisfy item (3) above.

A review of assignment records for this application reveals that, at the time this application became abandoned, Koninklijke Philips Electronics N.V. was the owner of this application. In this regard, Office assignment records disclose that an assignment to NXP B.V. was not executed until July 4, 2007 and recorded in the USPTO on August 17, 2007. Therefore, the statement of unintentional delay should be made by a party having an interest in this application during the period within which a timely reply to the non-final Office action of April 20, 2006 could have been filed. Alternatively, a statement of unintentional delay by the party in interest during the period in question (Koninklijke), or a statement by counsel that such statement was made after an inquiry into the underlying facts and circumstances, must be submitted in order to satisfy item (4). When the issue of revival is addressed, the focus must be on the rights of the party or parties as of the date of abandonment. See Kim v. Quigg, 718 F.Supp. 1280, 1284, 12 USPQ 1604, 1607 (E.D. Va. 1989). Petitioner's actions (or intentions) subsequent to expiration of the period for reply are immaterial to the question of the delay during the time a reply could have been timely filed. Any available evidence substantiating the unintentional delay in this application should also be submitted.

It is further noted that petitioner herein does not appear to have been given a power of attorney. Therefore, while it appears that the Electronic Business Center processed a change of address, it is unclear whether this was properly entered since, as noted above, there is no indication that petitioner was ever appointed by an assignee in compliance with 37 CFR 3.73(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

UNITED STATES 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

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

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JUN 1 6 2003

OFFICE OF PETITIONS

In re Application of Shtein et al. Application No. 10/233,470 Filed: September 4, 2002 Attorney Docket No. 10020/21702	: : : : :	DECISION ON PETITION

This is in response to your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The notification of loss of entitlement to small entity status is acknowledged and made of record.

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 Petitions Attorney Nancy Johnson at (703) 305-0309.

This file is being forwarded to Technology Center 1762 for examination in due course.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 11

MITCHELL W. SHAPIRO
MILES & STOCKBRIDGE PC
SUITE 500
1751 PINNACLE DRIVE
McLEAN, VA 22102-3833

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JUL 29 2003

OFFICE OF PETITIONS

In re Application of
Junji Noguchi et al
Application No. 10/233,475
Filed: September 4, 2002
Attorney Docket No. XA-9338H

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

This is a decision on the petition, filed July 28, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 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) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2813 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : 5/22/07

TO SPE OF : ART UNIT 2133

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/233504 Patent No: 7103827B2

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: _____

JACQUES LOUIS-JACQUES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

JLJ
SPE

2112
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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td

Mailed: 1-3-06

In re application of	:	
Nobuo Fujita	:	DECISION ON
Serial No. 10/233,585	:	PETITION
Filed: September 4, 2002	:	

For: FUEL CELL SYSTEM, METHOD OF CONTROLLING THE SAME, AND VEHICLE MOUNTED WITH SAME

This is a decision on the PETITION UNDER 37 CFR 1.181 FOR WITHDRAWAL OF THE office action dated December 21, 2004 in favor of a further office action which addresses claims 24-32 on their merits.

On December 21, 2004, a final office action was mailed containing a restriction requirement and an election by original presentation. The examiner stated that newly submitted claims 24-32 were directed to a distinct species from "a fuel cell system comprising a control unit" as recited in the original claims. The examiner withdrew claims 24-32 as being directed to a non-elected invention.

On January 26, 2005 the instant petition under 37 CFR 1.181 was timely filed to formally request that the examiner withdraw the office action in favor of a further office action which addresses claims 24-32 on their merits. This petition will be treated as a petition to withdraw the restriction requirement held by the examiner in the December 21, 2004 office action.

DECISION

Section 806.04 of the MPEP states in part:

806.04(h) [R-3] Species Must Be Patentably Distinct From Each Other
In making a requirement for restriction in an application claiming plural species, the examiner should group together species considered clearly unpatentable over each other.

Additionally, Section 803 of the MPEP states:

803 Restriction - When Proper

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

In the present application, two species have been presented. The first specie is found in claim 1 which is directed to a fuel cell system, comprising a control unit. The second specie is found in claim 24 which is directed to a fuel cell, comprising control means. It is noted that the control unit of claim 1 heats the fuel cell by shutting a shut-off valve to supply hydrogen gas in a way that generates heat. The control means of claim 24 are defined as means for heating the fuel cell by shutting a shut-off valve to supply hydrogen gas in a way that generates heat. In the office action, the examiner merely states that the two species are distinct but gives no further reasoning as to why they are distinct. Petitioner argues that the instant species are not in fact distinct species. Petitioner is correct. The examiner has the burden of showing that the species are in fact distinct but in the instant case, such a showing has not been made. In the instant case, the species would clearly be unpatentable over each other. As noted in Section 803 of the MPEP, such species should be grouped together.

Additionally, the examiner has not established that any serious burden exists to examine all of the claims as required by MPEP Section 803.

Accordingly, the restriction requirement is improper and should be withdrawn. The instant petition is **GRANTED.** The examiner is directed to withdraw the requirement and prepare a new office action examining including an examination of claims 24-32 on the merits.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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MAR 21 2008

In re Application of	:	
Nobuo Fujita	:	
Application No. 10/233,585	:	DECISION GRANTING PETITION
Filed: September 4, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 224493US3	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 20, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 14, 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 1795 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.*

MAILED
NOV - 4 2003
OFFICE OF THE DIRECTOR
TC 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-145

NOV - 4 2003

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L STREET NW
WASHINGTON, D.C. 20037-1526

In re application of
David Katz et al.
Application No. 10/233,596 :
Filed: September 4, 2002 :
For: SYSTEM AND METHOD FOR DOCUMENTING, :
TRACKING AND FACILITATING THE
DEVELOPMENT OF INTELLECTUAL PROPERTY

Paper No. 7

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on September 9, 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 A) above.

The attorneys associated with Customer Number 24998 do not correspond with those named in the Power of Attorney in the declaration, thereby creating confusion as to who is withdrawing. To alleviate this problem, it is suggested that the request be resubmitted and that such request specifically state that the signing attorney is signing on behalf of all attorneys of record in this application.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/cps: 11/3/03

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

BACON & THOMAS
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314

COPY MAILED

OCT 30 2002

OFFICE OF PETITIONS

In re Application of :
Hung-Hsiang Wang et al :
Application No. 10/233,601 : NOTICE
Filed: September 4, 2002 :
Attorney Docket No. WANG3136/EM :

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 2813.

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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Paper No. 3

BACON & THOMAS
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

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APR 15 2003

OFFICE OF PETITIONS

In re Application of	:	
Jeng-Hua Wei et al	:	
Application No. 10/233,603	:	NOTICE
Filed: September 4, 2002	:	
Attorney Docket No. WEU3002/EM	:	

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 2879.

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

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

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APR 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Robert Arnaud	:	
Application No. 10/233612	:	ON PETITION
Filing Date: 09/04/2002	:	
Attorney Docket Number:	:	
90500-000002/US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 19, 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 August 22, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). 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 November 23, 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) and fee, and the submission required by 37 CFR 1.114; (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) 272-3232.

This application is being referred to Technology Center AU 2131 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
Attorney
Office of Petitions

OIPE
FEB 12 2007
PATENT & TRADEMARK OFFICE

AF

IFW

Atty. Dkt. No. 065227-0126

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Shigeki TANAKA

Title: SOUND ABSORPTION MATERIAL HAVING EXCELLENT MOLDABILITY

Appl. No.: 10/233,622

Filing Date: 9/4/2002

Examiner: Jenna L. Davis

Art Unit: 1771

Confirmation Number: 7638

3-14-07
Approved
Jacqueline M. Stone, Director
Technology Center 1700

WITHDRAWAL OF ATTORNEY OF RECORD AND CHANGE OF CORRESPONDENCE ADDRESS

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

Sir:

Effective immediately, Foley & Lardner LLP attorneys associated with CUSTOMER NUMBER: 22428, withdraw as Attorney of Record for the captioned application, due to Applicant's request to transfer all files to Fish & Richardson, P.C., dated January 31, 2007.

The undersigned is signing this withdrawal on behalf of himself and all the aforementioned attorneys.

All further correspondence should be sent to:

Mr. Samuel Borodach
Fish & Richardson P.C
Citigroup Center,
153 East 53rd Street, 52nd Floor,
New York, New York 10022-4611.

Respectfully submitted,

Date February 12, 2007

By Michael D. Kaminski
Reg. No. 32,904, for

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5571
Facsimile: (202) 672-5399

Harold C. Wegner
Attorney for Applicant
Registration No. 25,258

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NOV 22 2005

TECHNOLOGY CENTER 2100

BERKELEY LAW & TECHNOLOGY GROUP
1700NW 167TH PLACE
SUITE 240
BEAVERTON, OR 97006

In re Application of: Hui-Ling CHOU)
Application No. 10/233,630) *SUA SPONTE*
Attorney Docket No. MR3029-46) WITHDRAWAL OF HOLDING OF
Filed: September 4, 2002) ABANDONMENT
For: METHOD FOR LOADING A)
PROGRAM MODULE IN AN OPERATING)
SYSTEM

A review of the application reveals that a Notice of Abandonment was mailed to the applicant on September 22, 2005. The notice incorrectly indicated that the instant application was being held abandoned for failure to respond to the Non-Final Office communication (mailed on March 17, 2005). A timely filed amendment with a three-month extension of time (37 CFR § 1.136(a)) was filed on September 21, 2005 bearing a certificate of mailing of September 19, 2005 (note, Saturday and Sunday, September 17 & 18). Accordingly, the amendment/response was timely filed.

In view of these facts, the abandonment of the application was clearly in error and is hereby **VACATED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **WITHDRAW** the holding of abandonment, restore the instant application to pending status and to process the amendment filed September 19, 2005. The application will then be forwarded to the Examiner of record for prompt action on the merits.

Inquiries to this decision may be directed to Special Programs Examiner Brian Johnson at (571) 272-3595.

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

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P.O. Box 1450
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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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MAY 0 5 2008

OFFICE OF PETITIONS

In re Patent No. 6,799,094	:	
Issue Date: September 28, 2004	:	
Application No. 10/233,633	:	NOTICE
Filed: September 3, 2002	:	
Attorney Docket No. 2222.5320000	:	

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.

Liana Walsh
Petitions Examiner
Office of Petitions

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MAR 2 4 2008

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

In re Application of	:	
Evans	:	
Application No. 10/233,646	:	DECISION
Filed: 3 September, 2002	:	
Attorney Docket No. DOCUSY 3.0-009	:	

This is a decision on the petition filed on 25 February, 2008, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the 3 July, 2007, non-final Office action, with reply due absent extension of time on or before 3 October, 2007;
- the application went abandoned by operation of law after midnight 3 October, 2007;
- the Office mailed a Notice of Abandonment on 22 January, 2008;
- on 25 February, 2008, Petitioner filed the instant petition with, *inter alia*, an averment that a reply had been timely and properly filed, and in support thereof Petitioner included a copy of the date-stamped ("JAN 08 2008") receipt card, with a copy of the reply in the form of an amendment and a request and fee for extension of time;—providing a showing

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consistent with the guidance at the Commentary at MPEP §711.03(c)(I)(A) and (B) (regarding non-receipt and timely filing, respectively).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

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

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[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).

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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] (See: the commentary at MPEP §711.03(c)(I)(A) and (B) , as to non-receipt and timely filing, respectively.)

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the burdens herein.

CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **granted**, and the 22 January, 2008, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center AU 3626 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center AU in response to this decision—and it is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center AU where that change of status must be effected.

---

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).

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While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[9] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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Mailed: 5/6/05

dss
Paper Number

In re application of
Armin Dadgar et al.
Serial No. 10/233,647
Filed: September 03, 2002
For: METHOD AND DEVICE FOR PRODUCING GROUP III-N, GROUP III-V-N, AND METAL-NITROGEN COMPONENT STRUCTURES ON SI SUBSTRATES

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a), filed December 20, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed November 02, 2004, for failure to timely file a proper reply to the Office action mailed March 25, 2004 be withdrawn since applicants did timely file a reply on July 26, 2004 as indicated in applicant's Certificate of Mailing. (A copy of the reply is attached to the instant petition as well as a declaration of Carrie A..Csizmadia in support of petition to withdraw holding of abandonment based on evidence that a reply was timely mailed.)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's reply was properly filed on July 26, 2004as evidenced by the Certificate of Mailing of July 26, 2004 and by the declaration of Carrie A..Csizmadia in support of petition to withdraw holding of abandonment based on evidence that a reply was timely mailed. Accordingly, any holding of abandonment for failure to timely file a proper reply to the Office action mailed March 25, 2004 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded for entry, processing and consideration of papers originally filed on July 26,2004.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

St. Onge, Steward, Johnston, & Reens LLC
986 Bedford Street
Stamford, CT 06905-5619

#6
DW

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MAR - 1 2004

OFFICE OF THE DIRECTOR
TC 3600

Wayne C. Jaeschke, Jr.
Morrison & Foerster LLP
Suite 300
1650 Tysons Boulevard
McLean, VA 22102

In re application of:
Ramon Van Der Riet
Application No. 10/233,677
Filed: September 4, 2002
For: MARKETING COMMUNICATION AND TRANSACTION/ DISTRIBUTION SERVICES PLATFORM...

Paper No. 6

: **DECISION ON REQUEST**
: **FOR WITHDRAWAL OF**
: **ATTORNEY**

This is a decision on the request filed on January 14, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved as moot because the attorney making the request does not now have, and apparently never has had, power of attorney in this application.

There is no record of power of attorney ever being given to the attorney making the request. The original declaration does not include a power of attorney for the requesting attorney, Wayne v. Jaeschke, Jr., and no separate paper conferring power of attorney to the attorney making the request has been filed.

The request to withdraw as attorney also lacks condition B) above.

As to condition B), applicants stated reason for the withdrawal is: "Application is being transferred to another attorney..." . This is not a valid reason for withdrawal as attorney of record. A proper reason for withdrawal as enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/cps: 2/24/04

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MAY - 2 2005

DANIEL H. GOLUB
1701 Market Street
Philadelphia, PA 19104

In re application of	:	**DECISION ON PETITION**
Ramon Van Der Riet	:	**TO MAKE SPECIAL**
Application No. 10/233,677	:	**(ACCELERATED**
Filed: September 04, 2002	:	**EXAMINATION)**
For: MARKETING COMMUNICATION AND TRANSACTION/DISTRIBUTION SERVICES PLATFORM FOR BUILDING AND MANAGING PERSONALIZED CUSTOMER RELATIONSHIPS		

This is in response to the petition filed on April 22, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(571) 272-6611

SNM/pav: 04/27/05

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BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

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OFFICE OF PETITIONS

In re Application of
Jeffrey S. Pixton
Application No. 10/233,680
Filed: September 4, 2002
Attorney Docket No. 111317-00104

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 21, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others and include a proper reason for the withdrawal as set forth in 37 CFR 10.40(b) or (c). 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 to withdraw cannot be approved because it does not comply with the mandatory or permissive reasons identified 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 Sherry D. Brinkley at 571-272- 3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

cc: JEFFREY S. PIXTON
118 LANGHORNE LANE
LYNCHBURG,VA 24501

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ALEXANDRIA, VA 22313-1450
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PETER S. WEISSMAN
BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

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AUG 02 2006

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey S. Pixton	:	
Application No. 10/233,680	:	DECISION ON REQUEST
Filed: September 4, 2002	:	TO WITHDRAW
Attorney Docket No. 111317-00104	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 CFR
§ 1.36(b), filed May 25, 2006.

The request was signed by Peter S. Weissman on behalf of himself and all the attorneys of record who are associated with Customer No. 27557.

The request is **APPROVED**.

All attorneys/agents associated with the Customer Number 27557 have been withdrawn. Accordingly, there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JEFFREY S. PIXTON
118 LANGHORNE LANE
LYNCHBURG,VA 24501

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JUN 28 2010

OFFICE OF PETITIONS

JOHN E. VANDIGRIFF
906 STONE CIRCLE LN
LEWISVILLE TX 75056

In re Patent No. 6,807,772	:	
Issue Date: October 26, 2004	:	
Application No. 10/233,709	:	ON PETITION
Filed: September 3, 2002	:	
Attorney Docket No. HAL102	:	

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

The petition is **DISMISSED**.

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

The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

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

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition is unsigned, the petition is considered to not contain a proper statement of unintentional delay.

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.

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.

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

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

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

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

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

/dcg/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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Lowrie, Lando, & Anastasi, LLP
Riverfront Office Park
One Main Street
Cambridge, MA 02142

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JAN 2 6 2005

OFFICE OF PETITIONS

In re Application of :
Nowak et al : ON PETITION
Application No. 10/233,746 :
Filed: September 3, 2002 :
Attorney Docket No. C2013-7131 :

This is a decision on the petition filed, September 24, 2004, under 37 CFR 1.10(e).

The petition is **Granted**.

The application was held abandoned on November 29, 2003 for failure to respond to the non-final Office Action which was mailed on August 24, 2004. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). No reply was received. A Notice of Abandonment was mailed on September 9, 2004.

Petitioner asserts that a response to the non-final Office action was deposited in "Express Mail" service with the U.S. Postal Service on November 25, 2003. In support, petitioner provided a copy of the Express Mail Label No. ET318101855US, a copy of the amendment which contains reference to the Express Mail Label Number, a copy of itemized postcard receipt referencing the Express Mail label Number. Further, the petition which is signed by registered practitioner Keith Noe, includes a statement verifying the copy of the original application papers as a true copy of the original correspondence.

§1.10(e) provides that:

Any person mailing correspondence addressed as set out in §1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy

receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

The Office considers the date the paper or fee is shown to have been deposited as the "Express Mail" to be the "Date In" on the Express Mail label. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the USPS on November 25, 2003.

Accordingly, the Notice of Abandonment is vacated .

The application is being forwarded to the Technology Center 1700 for further processing of the application including the amendment in response to the Office action submitted with the instant petition

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

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

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Paper No. 8

BROWNING BUSHMAN, P.C.
SUITE 1800
5718 WESTHEIMER
HOUSTON TX 77057

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JUL 1 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Burke et al.	:	
Application No. 10/233,747	:	DECISION GRANTING PETITION
Filed: 3 September, 2002	:	
Atty Docket No. SVEJ 22-2	:	

This is a decision in reference to the "Response to Petition" filed on 25 June, 2003, which is treated as a petition under 37 CFR 1.182.

The petition is **dismissed as moot**.

Petitioner states:

> In response to the Petition mailed April 25, 2003, page 2, Section II, please accept the filing date for the corrected drawings as June 25, 2003 per 37 CFR 1.182.

A review of the official file reveals that no petition was received, and no Office action mailed, on 25 April, 2003. Moreover, no Notice requiring a petition to accept corrected drawings is located in the official file. While the non-final Office action mailed on 20 March, 2003, stated that the drawings were objected to, no petition was required to accept new drawings.

As such, the Office can neither grant or deny the relief requested. If petitioner wishes to accept an application filing date of 25 June, 2003, including the drawings filed on that date, a petition requesting such should be filed.

If petitioner desires a refund of the $130.00 fee submitted with the present petition, petitioner should write to the Office of Finance, ATTN: Refund Section. A copy of this decision should accompany petitioner's request. Alternatively, petitioner may apply this sum to any other fee due in this application.

The application is being forwarded to Technology Center 1700 for further processing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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AUG - 1

jc997 U.S. PTO
10/233748
09/03/02

In re Application of
Lee R. Zehner and Warren L. Zehner
Serial Number: 09/852462
Filed: May 10, 2001
For: MIX OF FRUTOSE AND LACTOSE AS A LOW-CALORIE BULK SWEETNER WITH REDUCED GLYCEMIC INDEX

DECISION ON PETITION

This is in response to the petition filed May 10, 2001, requesting that the above-identified application be granted Special Status under Section 708.02 (IV) of the MPEP.

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly the petition is granted.

Richard V. Fisher

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

William S. Ramsey
5253 Even Star Place
Columbia, MD 21044

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 5

AGILENT TECHNOLOGIES, INC.
LEGAL DEPARTMENT, DL429
INTELLECTUAL PROPERTY
ADMINISTRATION
PO BOX 7599
LOVELAND, CO 80537-0599

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APR 1 1 2003

OFFICE OF PETITIONS

In re Application of Parker et al. Application No. 10/233,767 Filed: September 1, 2002 Attorney Docket No. 10020992-1	: : : : :	ON PETITION

This decision concerns the November 18, 2002 petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

Petitioners request a filing date of September 1, 2002 rather than the presently accorded filing date of September 3, 2002, on the basis that the application was deposited on September 1, 2002 in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" service pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of the "Express Mail" mailing label bearing the number "EV 156182077US." The same number also appears on the application transmittal which itemizes the application papers being mailed on that date. The petition is thus granted. No petition fee is owed.

In addition, the practitioner signing the instant petition uses a correspondence address different from that in the Office record, and does not appear to have a power of attorney from Assignee regarding this application. While a courtesy copy of the decision is being mailed to this practitioner, all future correspondence on this application will be sent to the current address-of-record unless the Office is properly instructed otherwise.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 1, 2002, and for issuance of a corrected filing receipt reflecting that filing date. Thereafter, the application file will be forwarded to the appropriate Technology Center for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions

cc: Gregory W. Osterloth, Esq.
Dahl & Osterloth
555 Seventeenth Street
Suite 3405
Denver, CO 80202

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW 12-02

Paper No. 5

AGILENT TECHNOLOGIES, INC.
LEGAL DEPARTMENT, DL429
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 7599
LOVELAND CO 80537-0599

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DEC 13 2002

OFFICE OF PETITIONS

In re Application of	:
Parker et al.	:
Application No. 10/233,768	: DECISION GRANTING
Filed: 1 September, 2002	: PETITION
Attorney Docket No. 10020991-1	:

This is a decision on the petition filed on 18 November, 2002, under 37 CFR 1.10(c) requesting that the above-identified application be accorded a filing date of 1 September, 2002, rather than the presently accorded filing date of 3 September, 2002.

Petitioner alleges that the application was deposited in Express Mail service on 1 September, 2002. In support, on 18 November, 2002, petitioner supplied a copy of a USPS Express Mail Post Office to Addressee label bearing Express Mail label No. EV156182085US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file) and a "date-in" and official USPS postmark of 09/01/02.

In view of the above, the petition is granted. No petition fee is due and none has been charged.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to 1 September, 2002, and for issuance of a corrected filing receipt.

Thereafter, the application will be forwarded to Technology Center 2800 for examination in due course.

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

D Wood

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

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LAWRENCE T. CULLEN
MCDERMOTT WILL & EMERY
600 13TH STREET, N.W.
WASHINGTON, D.C. 20005-3096

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OFFICE OF PETITIONS

In re Application of :
Craig Hansen et al :
Application No. 10/233,779 :
Filed: September 4, 2002 :
Attorney Docket No. 43876-138

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 2671.

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

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WASHINGTON D.C.

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Mailed: 12/29/04

spg
Paper Number

In re Application of Balakrishnan G. Nair et al.
Serial No.: 10/233,803
Filed: September 3, 2002

DECISION ON PETITION UNDER *37 CFR § 1.48(a)*

For: CERAMIC CASTABLE NANOMATERIALS

This is a decision on the PETITION AND FEE TO ADD ORIGINAL ERRONEOUSLY NOT NAMED INVENTOR IN NONPROVISIONAL APPLICATION AND DECLARATION (37 C.F.R. § 1.48(a)) filed October 18, 2004 to correct inventorship under 37 CFR 1.48(a) by adding the name of Shekar Balagopal to the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; (4) providing the processing fee set forth in 1.17(i); and, (5) providing the written consent of the assignee.

The request is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

Steven P. Griffin
Supervisory Patent Examiner
Art Unit 1731
Technology Center 1700

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

BUTLER, SNOW, O'MARA, STEVENS & CANNADA PLLC
6075 POPLAR AVENUE
SUITE 500
MEMPHIS TN 38119

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MAR 2 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Hodge & O'Malley	:	
Application No. 10/233,804	:	DECISION REFUSING STATUS
Filed: 3 September, 2002	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 023131.44429	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 9 December, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 3 September, 2002, without an executed oath or declaration. Accordingly, on 3 October, 2002, Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application" requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on 9 December, 2002 (certificate of mailing date 3 December, 2002), petitioners filed the present petition, petition fee, and surcharge, accompanied by a declaration naming Timothy A. Hodge and Shawn O'Malley as joint inventors and signed by joint inventor Hodge on behalf of himself and joint inventor O'Malley.

Petitioners assert that O'Malley was sent a copy of the application but failed to sign and return the declaration.

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

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

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

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1) and (5). In regards to item (1) and (5), petitioners have not shown that diligent efforts have been made to locate the non-signing inventor at his last known address.[1] The last known address should be the address at which the inventor customarily receives mail, will ordinarily be the last known residence of the nonsigning inventor.[2] Although petitioners have shown that a copy of an application was sent to joint inventor O'Malley at the Whitehead Institute, Cambridge, MA, his residence address as listed on 46 Orchard Street, Milleville, MA. As such, it is unclear which address is his last known address, and whether the application papers were sent there.

Additionally, since the papers were apparently not sent to his last known address, petitioners must provide proof that he received them. However, no proof that O'Malley received the application papers has been provided. The Federal Express shipping label included with the petition does not acknowledge receipt of the papers by O'Malley. If there is a Federal Express confirmation receipt showing that O'Malley actually received the application papers, it should be provided with a renewed petition. Alternatively, if O'Malley stated orally to a person that he received the application papers, the person with first-hand knowledge of that statement may provide the details in an affidavit or declaration of facts.

---

[1] MPEP 409.03(d).

[2] MPEP 409.03(e).

Petitioners should send a copy of the application (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor at his last known address with a request that he sign and return the declaration. Petitioners may show proof by providing a copy of the cover letter transmitting the application papers to the non-signing inventor or provide details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Likewise, before a *bona fide* refusal can be alleged, petitioners must show that a copy of the application papers was sent to the non-signing inventors. If there is a written refusal, a copy thereof must be submitted with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

Petitioners should also clarify, on renewed petition, the last known address of joint inventor O'Malley.

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

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

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

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

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

Douglas I. Wood
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

BUTLER, SNOW, O'MARA, STEVENS & CANNADA PLLC
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SUITE 500
MEMPHIS TN 38119

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APR 0 1 2003

OFFICE OF PETITIONS

In re Application of	:
Hodge & O'Malley	: SUPPLEMENTAL
Application No. 10/233,804	: DECISION REFUSING STATUS
Filed: 3 September, 2002	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 023131.44429	:

This is in response to the paper filed on 25 March, 2003, as a supplement to the petition under 37 CFR 1.47(a) on 9 December, 2002.

The petition under 37 CFR 1.47(a) filed on 9 December, 2002, was dismissed on 24 March, 2003, because petitioners had not shown that diligent efforts have been made to locate the non-signing inventor at his last known address.[1] Specifically, the application was not sent to O'Malley's last known address. Petitioners were also asked to specify O'Malley's last known address.

In the present communication, petitioners show that a preliminary amendment and new oath or declaration was forwarded to non-signing inventor O'Malley at the same address as the application papers.

As petitioners have not shown that a copy of the application papers were sent to the last known address of the non-signing inventor, the petition remains dismissed. Petitioners should send all application papers, including the preliminary amendment to the non-signing inventor at his last known address as specified in the decision mailed on 24 March, 2003.

---

[1] MPEP 409.03(d).

The petition is **dismissed**. **The time period for reply remains as set forth in the decision mailed on 24 March, 2003.** Extensions of time are available in accordance with 37 CFR 1.136(a).

The $130.00 additional petition fee submitted with the papers filed on 25 March, 2003, is unnecessary and will be credited to counsel's deposit account, No. 50-0858.

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

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

OR (after 1 May, 2003)[2]

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

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

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 15

BUTLER, SNOW, O'MARA, STEVENS & CANNADA PLLC
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JUL 01 2003

OFFICE OF PETITIONS

In re Application of	:	
Hodge & O'Malley	:	
Application No. 10/233,804	:	DECISION ACCORDING STATUS
Filed: 3 September, 2002	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 023131.44429	:	

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 26 June, 2003 (certificate of mailing date 23 June, 2003).

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been provided with the application papers. Specifically, petitioners have shown that a copy of the application papers was sent to the non-signing inventor's last known address by Federal Express, but the inventor has failed to execute 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 Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

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

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions

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In re Application of :
Hodge, et al. :
Application No. 10/233,804 : ON PETITION
Filed: September 3, 2002 :
Attorney Docket No. 023131.44429 :
For: DETECTION OF GENETIC SEQUENCES
USING A BIPARTITE PROBE

This is a decision on the petition under 37 CFR 1.137(b), filed on December 11, 2008, to revive the above-identified application.

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

Petitioners state that the above-identified application became abandoned as a result of applicants' failure to properly reply to the May 8, 2008 final Office action, which set a three month extendable period for reply. Applicants filed a petition for a three month extension of time and a RCE and amendment on November 10, 2008. November 8, 2008 was a Saturday, so the November 10, 2008 filing was timely. On December 3, 2008, the Office mailed a Notice of Non-Compliant Amendment. No Notice of Abandonment has been mailed in this application.

Petitioners are informed that the December 3, 2008 Notice of Non-Compliant Amendment provided a one month or thirty day (whichever was longer) period for reply from the mail date of the Notice because the amendment was a submission for a RCE. Therefore, applicants have until January 3, 2009 to submit a compliant amendment. Applicants filed what appears to be a compliant amendment on December 11, 2008. Therefore, the application never went abandoned and the petition under 37 CFR 1.137(b)is **dismissed as moot.**

The $810.00 petition fee submitted on December 11, 20008 will be refunded to deposit account 50-0858.

After the mailing of this decision the application will be forwarded to Technology Center A.U. 1634 for consideration of the amendment filed on December 11, 2008, which is the submission to the November 10, 2008 RCE.

Telephone inquiries pertaining to this decision 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

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

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AUG 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Dean J. Welsch, et. al.	:	
Application No. 10/233,885	:	ON PETITION
Filed: September 3, 2002	:	
Attorney Docket No. PHAR 8023U2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on July 19, 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 November 17, 2005.

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

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
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Paper No. 13

AGILENT TECHNOLOGIES, INC.
LEGAL DEPARTMENT, DL429
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 7599
LOVELAND, CO 80537-0599

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MAR 2 9 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Andreas N. Dorsel et al :
Application No. 10/233,921 :
Filed: September 3, 2002 :
Attorney Docket No. 10980670-3

This is a decision on the petition, filed September 22, 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 Irvin Dingle at (703) 306-5684.

The file will be forwarded to Technology Center AU 2878 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 09192005

AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P. O. Box 7599
Loveland CO 80537-0599

SEP 20 2005

In re Application of	:	
DORSEL et al.	:	DECISION ON PETITION
Application No. 10/233, 921	:	
Filed: September 3, 2002	:	
Attorney Docket No. 10980670-3	:	

This is a decision on the petition filed January 26, 2005, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is GRANTED.

A non-final Office action was mailed April 20, 2004, setting three-month shortened statutory period for filing a response. In the absence of a response, the application was held abandoned and a Notice of Abandonment was mailed December 15, 2004.

Petitioner asserts that a response was timely filed by facsimile transmission on July 20, 2004. To support the assertion, petitioner submitted 1) a copy of a response entitled "Amendment and Response" which bears a Certificate of Transmission under 37 C.F.R. § 1.8(a) dated July 20, 2004. 2) a copy of the sending unit's report confirming successful transmission of the Amendment and Response on July 20, 2004 and 3) a copy of the Auto-Reply Facsimile Transmission report received from the U.S. Patent and Trademark Office dated July 20, 2004.

A review of the application file record reveals that the above-identified response is not of record in the application file and cannot be located. However, 37 CFR § 1.8(b) provides for accepting a correspondence as being timely filed if it is transmitted in accordance with 37 CFR § 1.8(a), and is reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is

> dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence: (1) informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence; (2) supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and (3) includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition, meets the conditions of 37 CFR § 1.8(b) to establish the previous timely filing of the response.

The application file is being forwarded to the technical support staff for processing the Amendment and Response. From there, it will be returned to the examiner for further prosecution.

Questions regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800
Semiconductor, Electrical and Optical
Systems and Components

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BRINKS HOFER GILSON & LIONE
PO BOX 10395
CHICAGO IL 60610

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SEP 0 2 2008

OFFICE OF PETITIONS

In re	:
Akihisa Itoh	: DECISION ON REQUEST
Application No. 10/233,927	: FOR RECONSIDERATION OF
Filed: September 3, 2002	: PATENT TERM ADJUSTMENT
Patent No. 7,348,965	: UNDER 37 C.F.R. §1.705(d)
Issued: March 25, 2008	:

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT", filed May 27, 2008[1], requesting correction of the patent term adjustment (PTA) indicated on the patent due to the patent not issuing within three years of its filing.

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

On March 25, 2008, the above-identified application matured into U.S. Patent No. 7,348,965. The patent issued with a Patent Term Adjustment of six hundred forty-nine (649) days (773 days of PTO delay and 124 days of applicant delay).

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[1] The request was timely in accordance with 37 C.F.R. §1.705(d). May 25, 2008 fell on a Sunday, and May 26, 2008 fell on a federal holiday. See Revision of Patent Term Extension and Patent Term Adjustment Provisions, Final Rule (April 22, 2004), 69 Fed. Reg 21704.

Patentee states that the determination of patent term adjustment should have been increased by 337 days due to the PTO delay incurred for the number of days between the 3 year date and the issue date (March 25, 2008), minus the number of days between the filing of the RCE (November 17, 2006) and the issue date.

Patentee is advised that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004). See also Explanation of 37 CFR 1.703(f)and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A) 69 Fed. Reg. 34283 (June 21, 2004). Since the Office delay under 37 CFR 1.702(a)(1) is greater than the delay under 37 CFR 1.703(b)(1), patentee will receive no additional PTA time.

In view thereof, the correct determination of PTA at the time of issuance is six hundred forty-nine (649) days.

The $200 fee set forth in 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 23-1925, as authorized.

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

Nancy Johnson

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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SHAWN O'MALLEY
46 ORCHARD ST
MILLEVILLE MA 01529

COPY MAILED

APR 0 7 2003

OFFICE OF PETITIONS

In re Application of :
Timothy A. Hodge and Shawn O'Malley :
Application No. 10/233,942 :
Filed: September 3, 2002 :
Title: SYSTEM, METHOD AND APPARATUS :
FOR TRANSGENIC AND TARGETED
MUTAGENESIS SCREENING

LETTER

Dear Mr. O'Malley:

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

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

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

Susan B. Fentress
6075 Poplar Ave
Suite 500
Memphis, TN 38119
(901)680-7319

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. 7

SUSAN B FENTRESS
BUTLER SNOW O'MARA STEVENS & CANNADA PLLC
PO BOX 171443
MEMPHIS TN 38187

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APR 0 7 2003

OFFICE OF PETITIONS

In re Application of
Hodge, et al.
Application No. 10/233,942
Filed: September 3, 2002
Attorney Docket No. 023131.41500

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47, filed December 9, 2003, which is being treated as a petition under 37 CFR 1.47(a).

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

The above-identified application was filed on September 3, 2002, without an oath or declaration. Accordingly, on October 3, 2002, petitioner was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition and paid the surcharge for late filing of the declaration. To make timely this reply, applicant included a Certificate of Mailing dated December 3, 2002. Accompanying the petition was a declaration executed by co-inventor Timothy A. Hodge, but lacking a signature from co-inventor Shawn O'Malley.

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

On petition, attorney Susan B. Fentress has supplied, *inter alia*, a copy of a cover letter to the last known address of O'Malley, dated October 4, 2002, transmitting the application papers. According to Fentress, no executed declaration from O'Malley 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.

It is noted that the last known address of O'Malley supplied by petitioner appears to be a business address. The last known address should be an address at which the inventor customarily receives mail.[1] Accordingly, this Office will assume that O'Malley customarily receives mail at this business address. If this assumption is not correct, petitioner must notify the Office.

This Office will forward notice of this application's filing to the non-signing inventor at the address given on the declaration. Notice of the filing of this application will also be published in the Official Gazette.

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 for pre-examination processing.

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Susan B. Fentress
6075 Poplar Avenue
Suite 500
Memphis, TN 38119

---

[1] See MPEP 409.03(e).

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

12/13/07

Patent No. :6911904
Inventor(s) : John S. Nantz et al.
Issued : 6/28/2005
Title : YSTEM AND METHOD FOR ADAPTIVE VARIABLE MAGNETIC FIELD GENERATOR
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that col. 8 line 29, claim 6 is printed in accordance with the record. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfeild, Michigan 48075-1238

HR/CBN

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Paper No. 7

MINTZ LEVIN COHN FERRIS
GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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JUL 3 0 2003

OFFICE OF PETITIONS

In re Application of
Bernard Mach et al
Application No. 10/233,958
Filed: September 3, 2002
For: ALLELIC VARIANTS OF HERV-K18, METHOD FOR ANALYSIS THEREOF AND USE IN THE DETERMINATION OF GENETIC PREDISPOSITION FOR DISORDERS INVOLVING THE HERV-K18 PROVIRUS

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

This is in response to the petition under 37 CFR 1.47(a), filed June 19, 2003.

The petition is granted.

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

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

This application is being forwarded to Initial Patent Examination Unit.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BERNARD CONRAD
14, RUE DE LAC
CH-1207 GENEVE
SWITZERLAND

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JUL 3 0 2003

OFFICE OF PETITIONS

In re Application of
Bernard Mach; Bernard Conrad
Application No. 10/233,958
Filed: September 3, 2002
For: ALLELIC VARIANTS OF HERV-K18, METHOD FOR ANALYSIS THEREOF AND USE IN THE DETERMINATION OF GENETIC PREDISPOSITION FOR DISORDERS INVOLVING THE HERV-K18 PROVIRUS

Dear Mr Conrad:

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

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

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (703) 306-5684. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

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

cc:

Mintz, Levin, Cohn, Ferris,
Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111

OIPE JC87
SEP 27 2002
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
OCT 18 2002
TECH CENTER 1600/2900

In re the Application of:)
)
Timothy A. Hodge)
)
Serial No.: 10/233,972)
)
Filed: September 3, 2002)
)
For: ISOLATION OF EUKARYOTIC GENOMIC DNA USING MAGNETICALLY RESPONSIVE SOLID FUNCTIONALIZED PARTICLES)

Attorney Docket No.: 023131.44427

TRANSMITTAL LETTER

Box Petitions
Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

Enclosed please find the following:

1. Copy of Notice of Omitted Items in a Non-provisional application;
2. Petition Under 37 C.F.R. 1.182;
3. Drawing figures 13 and 14 of the above-identified patent application;
4. Supplemental Declaration Under 37 C.F.R. 1.63;
5. Declaration and Power of Attorney to replace that which was submitted with the application on September 3, 2002;
6. Check in the amount of $130.00;
7. U.S. Express Mail Label No.: EK716354932US; and
8. Return Postcard.

Respectfully Submitted,
BUTLER, SNOW, O'MARA, STEVENS & CANNADA, PLLC

9-27-02
Date

By: Susan B Fentress
Susan B. Fentress
Reg. No. 31,327

P.O. Box 171443
Memphis, TN 38187
(901) 680-7319

U.S. Express Mail Label No.: EK716354932US

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/233,972	09/03/2002	Timothy A. Hodge	023131.44427

CONFIRMATION NO. 9962

FORMALITIES LETTER

OC000000008796396

28172
BUTLER, SNOW, O'MARA, STEVENS & CANNADA PLLC
6075 POPLAR AVENUE
SUITE 500
MEMPHIS, TN 38119

OIPE JC87
SEP 27 2002
PATENT & TRADEMARK OFFICE

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OCT 18 2002
TECH CENTER 1600/2900

Date Mailed: 09/16/2002

NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

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

- Figure(s) **13 and 14** described in the specification.

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

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

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

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

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U.S. Express Mail Label No.: EK716354932US

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

Muluemebet Wubneh

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

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Paper No. 7

ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD, CT 06905-5619

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FEB 04 2004
OFFICE OF PETITIONS

In re Application of :
Robert J. DiTullio :
Application No. 10/233,975 :
Filed: September 3, 2002 :
Attorney Docket No. 03739-P0002A :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 29, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 2, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 3, 2003.

The application file is being forwarded to Technology Center 3600, Art Unit 3673 for further processing.

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

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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AUG 12 2005

OFFICE OF PETITIONS

Joseph J. Torch
34 Abbott Road
Towaco, NJ 07082

In re Application of: TORCH, Joseph, J. :
U.S. Application No.: 10/233,990 :
Filing Date: September 04, 2002 :
Attorney's Docket No.: None :
For: AN EXTERIOR STEP SYSTEM :
MADE FROM MASONRY UNITS :
ATTACHED VIA A METAL FRAME :

DECISION ON PETITION
(37 CFR 1.137(b))

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-entitled application, filed May 06, 2005.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the "Notice Of Non-Compliant Amendment" mailed May 11, 2004, which set an extendable period for reply of one (1) month. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned at midnight on June 11, 2004.

The present petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes (1) the reply in the form of a response to the "Notice Of Non-Compliant Amendment" mailed May 11, 2004 (and to the Office action mailed December 08, 2003); (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply to the "Notice Of Non-Compliant Amendment" mailed May 11, 2004 (and to the Office action of December 08, 2003) is accepted as having been unintentionally delayed.

It is noted that 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.

The application file is being referred to Technology Center AU 3635

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

cc: Allen P. Kipnes
WATOV & KIPNES, P.C.
P.O. Box 247
Princeton Junction, NJ 08550

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUN 2 2 2006
OFFICE OF PETITIONS

MAYER, BROWN, ROWE & MAW LLP
1909 K STREET, N.W.
WASHINGTON DC 20006

In re Application of	:	
Christoph SCHNELLE et al.	:	DECISION ON PETITION
Application No. 10/233,991	:	UNDER 37 CFR 1.78(a)(3)
Filed: September 3, 2002	:	
Attorney Docket No. 124776-05146092	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition under 37 CFR 1.78(a)(3) is **DISMISSED** as moot in view of the request filed May 30, 2006, withdrawing the petition to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

In view of the above, the $1370 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 2176.

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THEODORIC BENJAMIN FRUIT
W3971 US HWY 10
ELLSWORTH WI 54011

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JUN 0 4 2007

OFFICE OF PETITIONS

In re Application of
Fruit
Application No. 10/234,020
Filed: September 4, 2002
Attorney Docket No. N/A
For: METHOD FOR PRODUCING A REAL-TIME, MOVING, STEREOSCOPIC, PREVIEW IMAGE

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed May 14, 2007 (certificate of mailing date May 9, 2007), to revive the above-identified application.

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

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

The above-identified application became abandoned for failure to submit a reply to the July 21, 2006 final Office action, which set an extendable three month period for reply. No reply being received, the application became abandoned on October 22, 2006. A Notice of Abandonment was mailed on April 9, 2007.

Petitioner asserts a reply was timely filed on certificate of mailing date August 18, 2006.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (1) and (3).

With respect to (1) above, a proper reply to the July 21, 2006 final Office action has not been filed.

Petitioner is reminded that after a final 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 (4) an RCE. To be a proper reply, an amendment after final must eliminate all of the Examiner's objections and rejections, and thus place the case in *prima facie* condition for allowance.

The amendment filed on May 14, 2007 (certificate of mailing date May 9, 2007) does not place this application in *prima facie* condition for allowance. Please review the enclosed Advisory Action Before the Filing of an Appeal Brief for more information.

Since the amendment does not *prima facie* place the application in condition for allowance, the reply required to revive this application must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

With respect to (3) above: As a preliminary matter, while applicant utilized certificate of mailing practice when he mailed the August 18, 2006 reply, it is noted that the reply itself is void of almost all identifiers. That is to say, the August 18, 2006 reply did not reference the application number, the filing date, the title, or an attorney docket number. The only piece of information that tied the August 18, 2006 reply to the present application was an abbreviated version of the inventor's name, found on the last page of the August 18, 2006 reply. (It is noted that Theodoric Benjamin Fruit only has one application pending with the Office.) In addition, petitioner has not explained who Brenda L. Schuster is in relation to this application and whether or not she would know if the reply was properly mailed on August 18, 2006.

Viewing the petition in the most favorable light, even if the reply were considered to be filed on August 18, 2006, the application would still be abandoned.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

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

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all

the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

The rules of practice are clear that prosecution of an application to save it from abandonment must include such complete and proper action as the condition of the case may require. The admission of an amendment not responsive to the last Office action, or refusal to admit the same, shall not operate to save the application from abandonment. "[T]he admission of, or refusal to admit, any amendment after final rejection, and any proceedings relative thereto, shall 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." See 37 CFR 1.116(a).

The application became abandoned because petitioner did not submit a **PROPER** reply to the final Office action. As stated above, the reply to the July 21, 2006 final Office action did not place the application *in prima facie* condition for allowance.

Petitioner's failure to appreciate that the filing of a proposed amendment under 37 CFR 1.116 did not relieve petitioner of the burden of timely filing a notice of appeal to avoid abandonment of the above-identified application. The abandonment of an application subject to a final Office action is not "unavoidable" within the meaning of 35 U.S.C. 133 and 37 CFR 1.137(a) in the situation in which the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. At 53162, 1203 Off. Gaz. Pat. Office at 89 (response to comment 66).

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

Petitioner is encouraged to file a petition under 37 CFR 1.137(b).

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

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) ($750.00); (3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a

statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

A revival petition fee must be submitted with a revival petition, as the fee is a statutory requirement.

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

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

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

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

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Advisory Action Before the Filing of an Appeal Brief

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/234,020	FRUIT, THEODORIC BENJAMIN	
	Examiner	Art Unit	
	Allen Wong	2621	

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

THE REPLY FILED 14 May 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 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: *1,2,4 and 8*.
   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: _____.

Allen Wong
Primary Examiner
Art Unit: 2621

Continuation of 11. does NOT place the application in condition for allowance because: Regarding the first paragraph on page 1 of applicant's remarks, applicant states that Peleg does not disclose the present invention: a single still picture is taken at one spatial location and then displayed simultaneously (or in an alternating fashion) with the frames of a live video that is taken in real-time from a second spatial location, or an invention that displays a single still picture for one eye and a moving picture for the second eye. The examiner respectively disagrees. In column 1, lines 17-20, Peleg discloses an apparatus that relates to the generation and displaying of stereoscopic images. In figure 2, Peleg discloses a single camera with a single lens is used, and wherein column 12, line 65 - column 13, Peleg discloses the alternating display of left and right images produces the three-dimensional appearance. Thus, Peleg discloses a single still picture is taken at one spatial location and then displayed simultaneously (or in an alternating fashion) with the frames of a live video that is taken in real-time from a second spatial location, or an invention that displays a single still picture for one eye and a moving picture for the second eye.

Regarding pages 1-2 of applicant's remarks, applicant states that claims 4 and 8 cannot be rendered obvious. The examiner respectfully disagrees. Official Notice is taken since it would have been obvious to one of ordinary skill in the art to implement a plurality of different display types for making the imaging apparatus more flexible, versatile by adapting the display to a variety of user's preferences for providing the user convenience and a more enjoyable viewing experience. Further, in line 25 on page 2 of applicant's remarks, the applicant makes a self-concession that it is obvious to use a plurality of display types, which supports the examiner's assertion that the use of plural display types is obvious to one of ordinary skill in the art so as to make the imaging apparatus more flexible, versatile by adapting the display to a variety of user's preferences for providing the user convenience and a more enjoyable viewing experience. Since the claims only state a method of displaying images, it does not specifically state what the images are displayed on, and thus, the claims 1, 2, 4 and 8 are reasonably interpreted by one of ordinary skill in the art.

Regarding pages 2-3 of applicant's remarks about the inventor name change, applicant should peruse the MPEP (Manual of Patent Examining Procedure) 605.04(c) [R-3], under "Inventor Changes Name". In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. Applicants are also strongly encouraged to submit an application data sheet (37 CFR 1.76) showing the new name. The petition should be directed to the attention of the Office of Petitions. The petition must include an appropriate petition fee and an affidavit signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a certified copy of the court order.

Since amendments are not permitted after the payment of the issue fee (37 CFR 1.312), a petition under 37 CFR 1.182 to change the name of the inventor cannot be granted if filed after the payment of the issue fee. If an application data sheet is not submitted, the petition may still be granted, but the patent may not reflect the correct spelling of the inventor's name. If the petition is granted, if the application is maintained in paper with a file jacket label (i.e., the application is an 08/ or earlier series application), the original declaration must be marked in red ink, in the left margin "See paper No. _ for correction of inventor name" and the application should be sent to the Office of Initial Patent Examination (OIPE) for change of name on the file wrapper and in the PALM database. If the petition is granted in an Image File Wrapper (IFW) application or if the application is an 09/ or later series application, the spelling of the inventor's name should be changed in the Office computer records and a new PALM bib-data sheet should be printed. If the application is assigned, applicant should submit a corrected assignment document along with a cover sheet and the recording fee as set forth in 37 CFR 1.21(h) to the Assignment Division for a change in the assignment record.

Thus, the rejection is maintained.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/234,020	Applicant(s) FRUIT, THEODORIC BENJAMIN	
	Examiner Allen Wong	Art Unit 2621	

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

THE REPLY FILED 14 May 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 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: *1,2,4 and 8*.
   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: _____.

Allen Wong
Primary Examiner
Art Unit: 2621

Continuation of 11. does NOT place the application in condition for allowance because: Regarding the first paragraph on page 1 of applicant's remarks, applicant states that Peleg does not disclose the present invention: a single still picture is taken at one spatial location and then displayed simultaneously (or in an alternating fashion) with the frames of a live video that is taken in real-time from a second spatial location, or an invention that displays a single still picture for one eye and a moving picture for the second eye. The examiner respectively disagrees. In column 1, lines 17-20, Peleg discloses an apparatus that relates to the generation and displaying of stereoscopic images. In figure 2, Peleg discloses a single camera with a single lens is used, and wherein column 12, line 65 - column 13, Peleg discloses the alternating display of left and right images produces the three-dimensional appearance. Thus, Peleg discloses a single still picture is taken at one spatial location and then displayed simultaneously (or in an alternating fashion) with the frames of a live video that is taken in real-time from a second spatial location, or an invention that displays a single still picture for one eye and a moving picture for the second eye.

Regarding pages 1-2 of applicant's remarks, applicant states that claims 4 and 8 cannot be rendered obvious. The examiner respectfully disagrees. Official Notice is taken since it would have been obvious to one of ordinary skill in the art to implement a plurality of different display types for making the imaging apparatus more flexible, versatile by adapting the display to a variety of user's preferences for providing the user convenience and a more enjoyable viewing experience. Further, in line 25 on page 2 of applicant's remarks, the applicant makes a self-concession that it is obvious to use a plurality of display types, which supports the examiner's assertion that the use of plural display types is obvious to one of ordinary skill in the art so as to make the imaging apparatus more flexible, versatile by adapting the display to a variety of user's preferences for providing the user convenience and a more enjoyable viewing experience. Since the claims only state a method of displaying images, it does not specifically state what the images are displayed on, and thus, the claims 1, 2, 4 and 8 are reasonably interpreted by one of ordinary skill in the art.

Regarding pages 2-3 of applicant's remarks about the inventor name change, applicant should peruse the MPEP (Manual of Patent Examining Procedure) 605.04(c) [R-3], under "Inventor Changes Name". In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. Applicants are also strongly encouraged to submit an application data sheet (37 CFR 1.76) showing the new name. The petition should be directed to the attention of the Office of Petitions. The petition must include an appropriate petition fee and an affidavit signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a certified copy of the court order.

Since amendments are not permitted after the payment of the issue fee (37 CFR 1.312), a petition under 37 CFR 1.182 to change the name of the inventor cannot be granted if filed after the payment of the issue fee. If an application data sheet is not submitted, the petition may still be granted, but the patent may not reflect the correct spelling of the inventor's name. If the petition is granted, if the application is maintained in paper with a file jacket label (i.e., the application is an 08/ or earlier series application), the original declaration must be marked in red ink, in the left margin "See paper No. _ for correction of inventor name" and the application should be sent to the Office of Initial Patent Examination (OIPE) for change of name on the file wrapper and in the PALM database. If the petition is granted in an Image File Wrapper (IFW) application or if the application is an 09/ or later series application, the spelling of the inventor's name should be changed in the Office computer records and a new PALM bib-data sheet should be printed. If the application is assigned, applicant should submit a corrected assignment document along with a cover sheet and the recording fee as set forth in 37 CFR 1.21(h) to the Assignment Division for a change in the assignment record.

Thus, the rejection is maintained.

UNITED STATES 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

SCHWEGMAN LUNDBERG WOESSNER & KLUTH PA
PO BOX 2938
MINNEAPOLIS MN 55402

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OCT 3 1 2003
OFFICE OF PETITIONS

In re Application of
Azimi, et al.
Application No. 10/234,030
Filed: September 3, 2002
Attorney Docket No. 884.342US2

DECISION ON PETITION

This is a decision on the "Response to the Notice of Omitted Item(s)- Petition Under 1.182", filed July 24, 2003, which is being treated as a petition under 37 CFR 1.53 to accord the above-identified application a filing date of September 3, 2002, with page 17 of the specification as part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were deposited on September 3, 2002. However, on May 19, 2003, the Initial Patent Examination Division mailed applicant a "Notice of Omitted Item(s) in a Provisional Application." Applicant was notified that the application papers had been accorded a filing date; however, page 17 of the specification appeared to have been omitted.

In response, applicant filed the instant petition. Accompanying the petition was a copy of page 17 of the specification. Applicant maintains that the application as originally filed included this page. In support thereof, applicant submitted a postcard receipt identifying this application, itemizing "18 pgs, including claims numbered 1 through 30" as enclosed, bearing a United States Patent and Trademark Office date-stamp of September 3, 2002, and lacking any notation of non receipt of any item listed.

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.

Given the basis for granting the petition, the petition fee has been refunded to Deposit Account No. 19-0743.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of September 3, 2002, using the application papers received in the Office on that date and page 17 of the specification as resupplied on petition filed July 24, 2003.

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at 703-305-0272.

John Gillon
Senior Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Paper No. 8

SCHWEGMAN LUNDBERG WOESSNER & KLUTH PA
PO BOX 2938
MINNEAPOLIS MN 55402

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OCT 3 1 2003

OFFICE OF PETITIONS

In re Application of Hamid Azimi, Debabrata Gupta, Saliya Witharana Application No. 10/234,030 Filed: September 3, 2002 Attorney Docket No. 884.342US2	: : : : : :	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed April 22, 2003.

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

The above-identified application was filed on September 3, 2002, without a fully executed oath or declaration, the statutory basic filing fee, and additional claims fee. Accordingly, on September 16, 2002, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring these missing items and fees, together with a surcharge for their late filing.[1] This Notice set a two month extendable period for reply.

In reply, applicant filed a petition under 37 CFR 1.47(a) on April 22, 2002, together with the statutory basic filing fee, additional claims fee, and surcharge. The petition was made timely by obtaining a five month extension of time and including a Certificate of Mailing dated April 16, 2003. Accompanying the petition was a declaration executed by joint inventors Hamid Azimi and Saliya Witharana, but with the signature block for joint inventor Debabrata Gupta left blank.

---

[1] On May 19, 2003, a Withdrawal of Previously Sent Notice was mailed, informing applicant that the September 16, 2002 Notice was mailed in error and was being withdrawn in favor of a Notice of Omitted Items of Nonprovisional Application. However, the Notice to File Missing Parts of Nonprovisional Application was not mailed in error.

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 acceptablee oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On petition, applicant has included a cover letter to the last known address of Gupta, dated September 27, 2002, transmitting the application papers. According to Rule 47 applicant, as of the date of the petition, no executed declaration from Gupta has been received.

On renewed petition, Rule 47 applicant has submitted a declaration in compliance with 37 CFR 1.63 and satisfied the requirements of 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 2800, Group Art Unit 2811, for docketing.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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DEBABRATA GUPTA
11419 EAST GAMBLE LANE
SCOTTSDALE AZ 85262

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OCT 3 1 2003

OFFICE OF PETITIONS

In re Application of
Hamid Azimi, Debabrata Gupta,
Saliya Witharana
Application No. 10/234,030
Filed: September 3, 2002
Title: LOW COST PROGRAMMABLE CPU PACKAGE/SUBSTRATE

LETTER

Dear Mr. Gupta:

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

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

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

Charles E. Steffey
Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612)373-6970

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 7

HAMILTON BROOK SMITH & REYNOLDS P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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APR 1 8 2003

OFFICE OF PETITIONS

In re Application of	:
Bing Chiang et al	:
Application No. 10/234,036	: DECISION GRANTING STATUS
Filed: August 30, 2002	: UNDER 37 CFR 1.47(A)
For: METHOD AND APPARATUS FOR	:
FREQUENCY SELECTIVE BEAM FORMING	

This is in response to the petition under 37 CFR 1.47(a), filed February 20, 2003.

The petition is granted.

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

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 addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

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

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

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JAMES A. PROCTOR JR.
258 SEA VIEW STREET
MELBOURNE BEACH, FL 32940

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APR 1 8 2003

OFFICE OF PETITIONS

In re Application of
Chiang; Gainey; and Proctor Jr.
Application No. 10/234,036
Filed: August 30, 2002
For: METHOD AND APPARATUS FOR FREQUENCY SELECTIVE BEAM FORMING

Dear Mr. Proctor:

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

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

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

cc:
HAMILTON BROOK SMITH & REYNOLDS P.C.
530 VIRGINIA ROAD, PO BOX 9133
CONCORD, MA 01742-9133

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KENNETH M. GAINEY
441 THRUSH DRIVE
SATELLITE BEACH, FL 32927

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APR 1 8 2003

OFFICE OF PETITIONS

In re Application of
Chiang; Gainey; and Proctor Jr.
Application No. 10/234,036
Filed: August 30, 2002
For: METHOD AND APPARATUS FOR FREQUENCY SELECTIVE BEAM FORMING

Dear Mr. Gainey:

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

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

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

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

cc:
HAMILTON BROOK SMITH & REYNOLDS P.C.
530 VIRGINIA ROAD, PO BOX 9133
CONCORD, MA 01742-9133

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TC 3600

BRIAN ROFFE, ESQ
11 SUNRISE PLAZA, SUITE 303
VALLEY STREAM, NY 11580-6170

Paper No. 5

In re application of
David S. Breed
Application No. 10/234,067
Filed: September 3, 2002
For: METHOD AND APPARATUS FOR CONTROLLING AN AIRBAG

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on October 14, 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 11/5/03

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Paper No. 121404

Neustel Law Offices, Ltd.
2534 South University Drive,
Suite 4
Fargo, ND 58103

In re Application of:	:	
Jetland	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 10/234,074	:	
Filed: August 29, 2002	:	
Attorney Docket No.: **JETL-001**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed June 25, 2004.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of Forsberg Law Office was filed on September 28, 2004. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

All future communications form the Office will continue to be directed to the below-listed address until otherwise notified by applicant. Inquiries related to this decision should be directed to Hien Phan at (571) 272-1606.

Hien Phan, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Jerolad M. Forsberg
Forsberg Law Office
2132 West Thirteenth St.
Duluth, MN 55806-1209

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VIVIEN Y. TSANG
THE SHERWIN-WILLIAMS COMPANY
11 MIDLAND BLDG. – LEGAL DEPT.
101 PROSPECT AVENUE, N.W.
CLEVELAND, OHIO 44115

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JUL 1 8 2005

OFFICE OF PETITIONS

In re Application of
Matthew V. Croyle, et al
Application No. 10/234,083
Filed: August 30, 2002
Attorney Docket No. 7005

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 22, 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 September 22, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned at midnight on December 22, 2003.

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; (3) the required statement of unintentional delay have been received. Accordingly, the petition filed March 22, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this matter may be directed to Wanda Banks at (571) 272-3277.

The application matter is being referred to Technology Center 1700, Art Unit 1714 for further processing.

Retta Williams

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

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The Sherwin-Williams Company
11 Midland Bldg. - Legal Dept.
101 Prospect Avenue, N.W.
Cleveland OH 44115

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OFFICE OF PETITIONS

In re Application of	:	
CROYLE et al	:	
Application No.: 10/234,083	:	DECISION ON PETITION
Filing Date: August 30, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: 7005	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 2, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 1, 2006, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on June 1, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment including the text of all pending claims; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action mailed May 1, 2006 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 1714 for appropriate action, if any, on the reply in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3301.

Daniel Stemmer
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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The Sherwin-Williams Company
11 Midland Bldg. - Legal Dept.
101 Prospect Avenue, N.W.
Cleveland, OH 44115

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In re Application of :
Matthew V. Croyle, et. al. :
Application No. 10/234,083 : ON PETITION
Filed: August 30, 2002 :
Attorney Docket No. 7005 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 12, 2009, to revive the above-identified application.

The application became abandoned for failure to file a reply to the Notification of Non-Compliant Amendment (37 CFR 1.121) mailed on July 21, 2008. A Notice of Abandonment was mailed on March 17, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 1796 for review of the amendment filed with the present petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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BAKER & BOTTS
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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APR 1 8 2006
OFFICE OF PETITIONS

In re Application of	:	
Karen Tracey ROBINS et al.	:	
Application No. 10/234,088	:	DECISION ON PETITION
Filed: September 3, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. A32865-PCT-USA-I	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 31, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP98/04587, filed July 22, 1998, set forth in the amendment submitted concurrently with the instant petition.

The petition is **GRANTED** to the extent indicated 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. 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 and 365(c) 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 the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 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 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.

With respect to the request to delete the benefit claim to the prior filed foreign applications, the filing of a petition under 37 CFR 1.78(a)(3) is inappropriate to delete a benefit claim. In this regard, petitioner's attention is directed to MPEP § 201.11(G), under the subheading Deleting Benefit Claims, which states:

> The examiner should consider whether any new prior art may now be available if a benefit claim is deleted. If an applicant is submitting an amendment to the specification or an ADS to delete a benefit claim after final rejection or action, the amendment or ADS will be treated under 37 CFR 1.116 (see MPEP § 714.12 and § 714.13). If the amendment or ADS to delete a benefit claim is submitted after the application has been allowed, the amendment or ADS will be treated under 37 CFR 1.312 (see § MPEP 714.16).

Accordingly, the request to delete the benefit claim under 35 USC 119 to the prior filed foreign applications in the petition under 37 CFR 1.78(a)(3) is dismissed as inappropriate. In any event should petitioner desire to delete the benefit claim to the prior filed foreign applications a separate paper is required. See 37 CFR 1.4(b)

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

The surcharge of $1370 required under 37 CFR 1.17(t) is being charged to petitioner's Deposit Account No. 02-4377.

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 1651 for appropriate action on the amendment filed August 31, 2005, 2005, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application.

Brian Hearn
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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JENKINS, WILSON, TAYLOR & HUNT, P.A.
SUITE 1200 UNIVERSITY TOWER
3100 TOWER BOULEVARD
DURHAM, NC 27707

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OFFICE OF PETITIONS

In re Application of	:
Mark T. Martin et al	:
Application No. 10/234,092	: DECISION GRANTING PETITION
Filed: September 5, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1387.0003CIP	:

This is a decision on the petition, filed November 27, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 18, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1641 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/703170	11/09/03	chungChee-Keung	

venable,Baetjer,Howard and Civiletti,LLP
P.O.Box 34385
Washington Dc 20043-9998

Date Mailed: 09/23/04

NOTICE OF CORRECTED APPLICATION NUMBER

Through an administrative error, the above identified application number was assigned to your application. The correct application number is **10/234103**. Please refer to the new application number in all future correspondence to the Office.

All notices mailed in application 10/703170 have been vacated. An updated filing receipt for **10/234103** will be mailed in due course.

The Office regrets any inconvenience this has caused. Please direct any questions or inquiries to Customer Service at (703) 308-1202.

Office of Initial Patent Examination

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MAR 21 2006

In re Application of KITA ET AL.
Appl. No.: 10/234,110
Filed: September 05, 2002
For: PIEZO-ELECTRIC THIN FILM ELEMENT AND A MANUFACTURING METHOD THEREOF

WITHDRAWAL FROM ISSUE
37 CFR 1.313

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

U.S. Patent and Trademark Office records reveal that the issue fee and the publication fee have been paid. 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 Fees Due, applicant may request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified on the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

The application is being forwarded to the examiner for action. Any inquiries into this application should be directed to the examiner of record, or, if you are unable to reach the examiner, to Darren Schuberg at 571 272-2044.

Richard Seidel
Director
Patent Examining Technology Center 2800

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 1, 2006

TO SPE OF : ART UNIT 3661

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/234112 Patent No.: 7,107,149 B2

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

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

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

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

SPE

3661

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/19/07

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction on Patent No.: 7097530

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:

TIM VO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE

2168
Art Unit

Staple Here Only!

PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,097,530 B2

DATED : August 29, 2006

INVENTOR(S) : KAZUNORI KATAKURA 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 COVER PAGE AT (56) FOREIGN PATENT DOCUMENTS

"JP 02-247936 10/1990" should be deleted;
"JP 02-247937 10/1990" should be deleted; and
"JP 07-32683 12/1995" should read --JP 07-326283 12/1995--.

COLUMN 5

Line 25, "the" (second occurrence) should read --a--.

COLUMN 7

Line 28, "embodiment," should read --embodiment--; and
Line 63, "element" should read --element 15'--.

COLUMN 22

Line 32, "row- directional" should read --row-directional--.

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 7,097,530 B2

No. of add'l. copies @ 30¢ per page

Form PTO 1050 (Rev. 3-82)

616258v1

MAR - 5 2007

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/28/07

TO SPE OF : **Technology Center** 3671 10/234154

SUBJECT : Request for Certificate of Correction on Patent No.: 6748730 B2

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

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

Thank You For Your Assistance

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

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

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

Comments:

Scanning mislabeled exhibits A, B, C as drawings (filed in the Remarks on 12/24/2003).

Pubs used the mislabeled exhibits as if they were the approved drawings for the Application.

Applicant's request for correction has been approved.

Thomas B. Will
SPE Supervisory Patent Examiner
Group 3600

3671
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

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112-3801

COPY MAILED

JUL 1 5 2005

OFFICE OF PETITIONS

In re Patent No. 6,869,176	:	DECISION ON
Hiroyuki Saito	:	PATENT TERM ADJUSTMENT
Issue Date: March 22, 2005	:	AND NOTICE OF INTENT
Application No. 10/234,156	:	TO ISSUE
Filed: September 5, 2002	:	CERTIFICATE OF
Attorney Docket No. 03500.016698	:	CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)", filed May 18, 2005. Patentee requests that the patent term adjustment indicated on the patent be corrected from zero (0) days to one hundred twelve (112) days.

The request is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one hundred twelve (112)** days.

On March 22, 2005, the above-identified application matured into U.S. Patent No. 6,869,176. The instant request for reconsideration filed May 18, 2005 was timely filed within two months of the date the patent issued. The Patent issued with a Patent Term Adjustment of zero (0) days. Patentee states that he should not have been assessed applicant delay of one hundred twenty (120) days and seventy-six (76) days for the submission of an IDS after the mailing of the Notice of Allowance, because the IDS was a duplicate submission of an IDS previously filed.

Under the circumstances of this case, it is concluded that the filing of applicant's IDS is not a failure to engage under 37 C.F.R. §1.704(c)(10). A review of the record reveals that applicant previously submitted the IDS on November 25, 2003. On May 12, 2004, Applicant filed a "REQUEST FOR CONSIDERATION OF PREVIOUSLY-FILED INFORMATION DISCLOSURE STATEMENT", stating that the Notice of Allowability mailed on April 27, 2004 did not include a form PTO-1449. Applicant was assessed seventy-six (76) days of applicant delay for this submission. Applicant filed the second request for an initialed IDS on July 27, 2004, and was assessed one hundred twenty (120) days of applicant delay. Because the IDS was previously filed on November 25, 2003, under the facts of this case the assessment of one hundred twenty (120)and seventy-six (76) days of applicant delay with respect to these filings is not warranted.

In view thereof, the correct determination of PTA at the time of issuance is **one hundred twelve (112)** days (138 days of PTO delay and 26 days of applicant day).

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **one hundred twelve (112)** 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
pa

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

Enc: draft certificate of correction

UNITED STATES 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 Apr-07

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

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APR 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Johan Wanselin	:	DECISION ON PETITION TO
Application No. 10/234,177	:	WITHDRAW HOLDING OF
Filed: 09/05/2002	:	ABANDONMENT
Atty. Docket No. 10400-	:	
000014/US	:	

This is a decision on the petition, filed on 11 January, 2007, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on 8 December, 2006, stating that the application was abandoned for failure to file a reply to the non-final Office action mailed on 31 May, 2006.

Petitioner asserts that a timely reply to the non-final Office action was filed on 29 September, 2006. In support, petitioner has provided, *inter alia*, a copy of a date-stamped postcard, showing receipt in the USPTO of an amendment in the above-identified application, stamped with an Office-date of 29 September, 2006.

A review of the record reveals that the amendment was filed on 29 September, 2006. While the amendment was received more than three (3) months after the mailing date of the Office action mailed on 31 May, 2006, the first page of the amendment states that the period for response is being extended by a Petition for Extension of Time filed herewith. As the amendment also contains authorization to charge counsel's deposit account for any required fee, the amendment is construed to contain a request for a one (1) month extension of time, and, as such, is a timely response to the Office action mailed on 31 May, 2006.

As such, there is no abandonment in fact. The Office regrets the error.

The holding of abandonment is withdrawn. The Notice of Abandonment is vacated.

No petition fee is necessary, although a one (1) month extension of time fee is required. The extension of time fee of $120.00 will be deducted from the $130.00 submitted with the present petition. The balance of $10.00 will be credited to counsel's deposit account.

The application is referred to Technology Center Art Unit 1744 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/234,177	09/05/2002	Johan Wanselin	10400-000014/US	1228

30593 7590 06/04/2009
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER
MCKANE, ELIZABETH L

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
06/04/2009	PAPER

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

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

wk

JUN 04 2009

Mailed:

In re application of	:	
John Wanselin	:	DECISION ON
Serial No. 10/234,177	:	PETITION
Filed: September 5, 2002	:	
For: Compact Sterilizing Or Disinfection Apparatus	:	

This is a decision on the PETITION UNDER 37 CFR 1.103(a) filed on January 22, 2009 to Suspend Office Action for six months until July 22, 2009 so that Applicant may determine the commercialibility of example embodiments of the present invention. It is noted that this is Applicant's second request for a six month suspension. The previous request filed May 12, 2008 was for the same reasons as the current request. Applicant has not indicated why the additional request is needed in view of the 1st six month suspension.

DECISION

The petition is **DENIED.**

/Gregory L Mills/
Gregory L. Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

John A. Castellano
Harness, Dickey & Pierce, P.L.C.
P.O. Box 8910
Reston, VA 20195

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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ANTHONY A. STADNICKI
ANTONELLI, TERRY, STOUT & KRAUS, LLP
SUITE 1800
1330 NORTH SEVENTH STREET
ARLINGTON, VA 22209

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MAR 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
KIGHT et al.	:	
Application No. 10/234,181	:	DECISION ON PETITION
Filed: September 5, 2002	:	TO WITHDRAW
Attorney Docket No. 3350-31L	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 27, 2005.

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

A review of the file record indicates that the power of attorney to Anthony Stadnicki, along with others, has been revoked by the subsequent filing of a revocation/power of attorney by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(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- 4787.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: WILLIAM R. SILVERIO
SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309-3996

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 4, 2009

TO SPE OF : ART UNIT 2431 - SPE William R. Korzuch.

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/234,223 Patent No.: 7,594,262 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

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

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

Comments: okay to enter

William Korzuch

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Robert Otto Hanzlik	: DECISION ON REQUEST FOR
Patent Number	: 7594262	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/234,223	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/04/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **884** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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www.uspto.gov

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

Mail Date: 05/17/2010

Applicant : Robert Otto Hanzlik
Patent Number : 7594262
Issue Date : 09/22/2009
Application No : 10/234,223
Filed : 09/04/2002

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

MICHAEL BEST & FRIEDRICH, LLC
401 NORTH MICHIGAN AVENUE
SUITE 1700
CHICAGO, IL 60611-4212

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NOV 0 6 2002

OFFICE OF PETITIONS

In re Application of :
J. Bruce Stoneberg :
Application No. 10/234,230 : DECISION ON PETITION
Filed: September 4, 2002 :
Attorney Docket No. 203456-0087 :

This is a decision on the "Petition to Reinstate Filing Date," filed October 11, 2002, requesting that the above-identified application be accorded a filing date of September 4, 2002.

Application papers in the above-identified application were filed on September 4, 2002. However, on October 3, 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, applicant timely filed the instant petition. Applicant maintains that the application was filed with drawings on September 4, 2002. In support thereof, applicant submits a copy of a return postcard receipt, itemizing "4 Sheets of Drawings" among the enclosures, bearing a USPTO date-stamp of September 4, 2002 with application No. assignment of 10/234,230, and lacking any notation of non-receipt of any item listed. Included with the petition is a copy of the four (4) 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 September 4, 2002 included four (4) sheets of drawings, and thus, is entitled to a filing date of September 4, 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. 50-1965, as authorized.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

---

[1] See 35 U.S.C. 111(a)(4).

- further processing with a filing date of September 4, 2002, using the application papers received in the Office on that date and the four (4) sheets of drawings resubmitted on petition filed October 11, 2002; and
- an indication in Office records that four (4) sheets of drawings were present on filing.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Sherry D. Brinkley

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER, CO 80202-5647

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APR 0 7 2003

OFFICE OF PETITIONS

In re Application of :
Desplats, et al. :
Application No. 10/234,231 :
Filed: September 3, 2002 :
Attorney Docket No.: 11744.00 :
For: APPARATUS AND METHOD FOR :
DETECTING PHOTON EMISSIONS FROM :
TRANSISTORS

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(a)

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

The petition is **GRANTED**.

Petitioner has shown that inventor Steven Kasapi has refused to join in the filing of the above-identified application after having been given the opportunity to review the application papers and execute a 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 petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries 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

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

STEVEN KASAPI
584 CASTRO STREET
PMP 681
SAN FRANCISCO, CA 94114

In re Application of
Desplats, et al.
Application No. 10/234,231
Filed: September 3, 2002
Attorney Docket No.: 11744.00
For: APPARATUS AND METHOD FOR DETECTING PHOTON EMISSIONS FROM TRANSISTORS

LETTER
COPY MAILED

APR 0 7 2003

OFFICE OF PETITIONS

Dear Sir:

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No. 7

Michael L. Diaz
Michael L. Diaz, P.C.
Suite 200
555 Republic Drive
Plano TX 75074

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DEC 23 2003

OFFICE OF PETITIONS

In re Application of
LOUIS E. SULFSTEDE
Application No. 10/234,264
Filed: September 4, 2002
Attorney Docket No. L7039-0002

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed November 20, 2003, which is being treated as a request to withdraw the holding of abandonment for the above-identified application.

This application was held abandoned for failure to timely and effectively respond to the nonfinal Office Action mailed on March 12, 2003, which set a three (3) month shortened statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned and a Notice of Abandonment was mailed on October 31, 2003.

In the present petition, petitioner states that on July 7, 2003, petitioner submitted a reply in the form of an amendment, a one-month extension of time with a check for $55.00, containing a certificate of mailing. Accompanying the petition is a copy of the amendment, a check in the amount of $55.00 for the one-month extension fee, and a $55.00 petition fee.

> 37 CFR 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received by the United States Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

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

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

After reviewing the papers submitted on petition, the response is considered timely filed on July 7, 2003. Accordingly, the petition is **granted**. The Notice of Abandonment is hereby vacated. The application is restored to pending status in view of the fact that a response was timely submitted on July 7, 2003.

The $55.00 petition fee will be refunded by treasury check.

The application file is being forwarded to Technology Center 2800.

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

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COMMISSIONER FOR PATENTS
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C. RICHARD MARTIN
MARTIN & MARTIN
P.O. BOX 29
BOONVILLE, IN 47601

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DEC 0 4 2003

OFFICE OF PETITIONS

In re Application of
Jeffery N. Beattey
Application No. 10/234,296
Filed: September 3, 2002
Attorney Docket No. MEPC:002

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 12, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed February 7, 2003, which set a shortened statutory period for reply of three (3) months. Three months extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 8, 2003.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on November 12, 2003.

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

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

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

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

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

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

The application file is being forwarded to Technology Center AU 1723 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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C RICHARD MARTIN
MARTIN & MARTIN
PO BOX 29
BOONVILLE, IN 47601

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OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Jeffery N. Beattey :
Application No. 10/234,296 :
Filed: September 3, 2002 :
Attorney Docket No. MEPC:002 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 5, 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 25, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 26, 2005.

The petition satisfies the requirement of 37 CFR 1.137 (b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed August 5, 2005 is accepted as having been unintentionally delayed.

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

The application matter is being referred to Technology Center 1700, Art Unit 1723 for further processing.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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M. Robert Kestenbaum
11011 Bermuda Dunes NE
Albuquerque, NM 87111

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MAR 1 4 2006
OFFICE OF PETITIONS

In re Application of

Axel Muntermann

Application No. 10/234,309

Filed: September 3, 2002

Attorney Docket No. (H)99MUN1269USP

DECISION ON PETITION

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the final Office action mailed December 3, 2004, which set a shortened statutory period for reply of three (3) months. A Request for Continued Examination was filed on May 17, 2005, along with a request for an extension of time within the third month. A Notice of Non-Compliant Amendment was issued on June 7, 2005, noting that the period for response remained as indicated in the final Office action. The application became abandoned on June 4, 2005. A Notice of Abandonment was mailed on February 6, 2006.

The "Replacement Sheet", filed February 16, 2006, intended to be responsive to the Notice of Non-Compliant Amendment is noted.

The application is being forwarded to Technology Center 3700, GAU 3737 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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DEMONT & BREYER, LLC
100 COMMONS WAY, Ste. 250
HOLMDEL NJ 07733

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JUN 19 2008

OFFICE OF PETITIONS

In re Application of

Axel Mutermann :

Application No. 10/234,309

: DECISION ON PETITION

Filed: September 2, 2002

:

Attorney Docket No. (H)99MUN1269USP

This is a decision on the petition under 37 CFR 1.137(b), filed, June 5, 2008, 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 July 20, 2007, 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 October 21, 2007. A Notice of Abandonment was mailed February 20, 2008.

The amendment filed June 5, 2008, is noted.

The Power of Attorney and Change of Correspondence Address filed June 5, 2008, is noted, however, only the Change of Correspondence Address was entered. The correspondence address can be changed by the attorney of record, however, the power of attorney must be signed by the sole inventor or an assignee empowered under 37 CFR 3.73(b). Petitioner should not contact the undersigned regarding any future attempts to change the power of attorney. Petitioner may file the appropriate documents at which the change to the power of attorney will be made in the receiving department of the USPTO.

The application is being forwarded to Technology Center 3700, GAU 3737 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 04/21/2010

Applicant	: Patrick J. Hughes	: DECISION ON REQUEST FOR
Patent Number	: 7614944	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/234,346	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/30/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1815** 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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WARNER NORCROSS & JUDD LLP
INTELLECTUAL PROPERTY PRACTICE GROUP
900 FIFTH THIRD CENTER
111 LYON STREET, N.W.
GRAND RAPIDS MI 49503-2487

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JUL 28 2006

OFFICE OF PETITIONS

In re Patent No. 6,949,185 :
Issue Date: September 27, 2005 :
Application No. 10/234,347 :
Filed: September 4, 2002 :
Patentee(s): James A. Woodard, Jr. et al :

ON PETITION

This is a decision on the petition filed November 28, 2005, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is granted.

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

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1]See Official Gazette of June 22, 2004

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BEUSSE WOLTER SANKS
MORA & MAIRE, P. A.
390 NORTH ORANGE AVENUE
SUITE 2500
ORLANDO, FL 32801

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OFFICE OF PETITIONS

In re Application of:	:	
Steiner et al.	:	
Application No. 10/234,354	:	DECISION ON
Filed: September 3, 2002	:	PETITION
Title of Invention:	:	
PROTRUDING SPACERS FOR	:	
SELF-ALIGNED CONTACTS	:	

This is a decision on the petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b), filed January 17, 2006, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 24, 2003. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned October 25, 2003. A Notice of Abandonment was mailed April 2, 2004.

With the instant petition, Applicant has filed an Amendment in response to the non-final Office action.

This application is being returned to Technology Center 2823 for processing of the Amendment, filed January 17, 2006, in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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OCT 16 2006
OFFICE OF PETITIONS

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 Wilshire Boulevard, 7th Floor
Los Angeles CA 90025-1026

In re Application of	:	
YAN, et al.	:	
Application No. 10/234,397	:	DECISION ON PETITION
Filed: September 3, 2002	:	TO WITHDRAW
Attorney Docket No. 005306.P040	:	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 26, 2006.

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

A review of the file record indicates that the power of attorney to Marina Portnova and all attorneys associated with Blakely Sokoloff Taylor & Zafman LLP have been revoked by the assignee of the patent application on September 11, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: **CSA LLP**
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/234,397	09/03/2002	Heung-Wah Yan	005306.P040

CONFIRMATION NO. 1053

OC000000020763277

R. Alan Burnett
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

Date Mailed: 10/10/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/11/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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PILLSBURY WINTHROP SHAW PITTMAN LLP
P O BOX 10500
McLEAN, VA 22102

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AUG 0 4 2005

OFFICE OF PETITIONS

In re Application of Hideo Ando et al Application No. 10/234,402 Filed: September 5, 2002 Attorney Docket No. P292723 T4A0A-02S0663	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed July 27, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 22, 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 2655 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), 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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MARILYN M. HUSTON
WONG CABELLO LUTSCH RUTHERFORD & BRUCCULERI LLP
20333 SH 249, SUITE 600
HOUSTON, TX 77070

COPY MAILED

OCT 06 2003

OFFICE OF PETITIONS

In re Application of
Francois Nicol et al
Application No. 10/234,405
Filed: September 3, 2002
Attorney Docket No. 54964.8304.US00

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 1600.

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

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ALEXANDRIA, VA 22313-1450
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MAY 13 2004

Paper No. 8

In re Application of
Helmuth W. Treichel *et al*
Application No. 10/234,413
Filed: September 3, 2002
Attorney Docket No. LAM2P118C

: DECISION ON PETITION

This is a decision on the petition filed on April 19, 2004 by which petitioners request withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the Office action dated August 27, 2003. The petition is considered pursuant to 37 CFR 1.8 and 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that this application is not abandoned because a timely and proper reply to the Office letter in question was in fact filed. Petitioners have 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 December 1, 2003. It is noted that the reply has affixed thereto a 37 CFR 1.8(a) certificate of mailing dated November 26, 2003, a date within the period set by the August 27, 2003 Office letter for filing a reply thereto. Based on this evidence, it is clear that this application is not abandoned. See 37 CFR 1.8(b).

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application will be forwarded to the examiner for action on the reply filed on December 1, 2003, certificate of mailing date November 26, 2003.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Martine & Penilla, LLP
710 Lakeway Drive
Suite 170
Sunnyvale, CA 94085

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R. Alan Burnett
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026

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In re Application of	:	
PRYCE, et al.	:	
Application No. 10/234,417	:	DECISION ON PETITION
Filed: September 03, 2002	:	TO WITHDRAW
Attorney Docket No. OIC0207US	:	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 16, 2006.

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

A review of the file record indicates that the power of attorney to BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP has been revoked by the assignee of the patent application on September 11, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: **CSA LLP**
4807 Spicewood Springs Road
Bldg. 4, Suite 201
Austin, TX 78759

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/234,417	09/03/2002	Alex Pryce	005306.P071

CONFIRMATION NO. 1108

OC000000021500359

R, Alan Burnett
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

Date Mailed: 12/06/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/11/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

PVolpe

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

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Paper No. 7

MICHAEL R. FRISCIA
WOLFF & SAMSON
5 BECKER FARM ROAD
ROSELAND, NJ 07068-1776

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MAR 0 3 2003

OFFICE OF PETITIONS

In re Application of
Casabona et al.
Application No. 10/234,434
Filed: September 3, 2002
Attorney Docket No. 9732/1

ON PETITION

This decision concerns the November 12, 2002 "Petition under 37 CFR 1.10(d) to Accord Filing Date as Date of Deposit with U.S. Postal Service."

The petition is **DISMISSED.**

This application was originally accorded a filing date of September 3, 2002. The present petition requests an earlier filing date of August 29, 2002, on the basis that one of the Applicants, Murray W. Rosen ("Rosen"), had **intended** to deposit the application papers on that day in the U.S. Postal Service "Express Mail Post Office to Addressee "service (USPS "Express Mail"), but was mis-informed by the Postal clerk and, instead, mailed the application through the U.S. Postal Service Priority Mail service.

Under 37 CFR 1.6(a), correspondence received in the PTO (including that permitted to be, and was, filed by facsimile) is stamped with the **date of receipt, except** that **correspondence deposited in the USPS "Express Mail" in accordance with §1.10 will be stamped with the date of deposit as "Express Mail" with the USPS**. 37 CFR 1.10(d) also provides that any person filing correspondence that was received by the Office **and delivered by the USPS "Express Mail", who can show that the "date-in" on the "Express Mail" mailing label . . . was incorrectly entered by the USPS**, may petition to accord the correspondence a filing date as of the date the correspondence is **shown** to have been deposited with the USPS.

In addition, §1.10(d) requires, *inter alia*,[1] a showing, establishing that the requested filing date was the **date of deposit** of the application **in the "Express Mail" service prior to the last scheduled pickup for that day**, and, corroborated by evidence from the USPS.[2]

The Office notes that:

1. The instant application was **not** deposited in the USPS "Express Mail" on the requested filing date of August 29, 2002. Rather, it was mailed through the USPS Priority Service, which is not a mode recognized in 37 CFR 1.10.

2. §1.10(d) provides for remedying an incorrect "date-in" entered by the Postal clerk

---

[1] 37 CFR 1.10(d)(1) requires that the petition be filed promptly after the person becomes aware of the incorrect "date-in" entry by the USPS; and that the number of the "Express Mail" mailing label be placed on the application prior to mailing.

[2] 37 CFR 1.10(d)(3). See also MPEP section 513 (Aug. 2001) (Petition to correct incorrectly entered date-in).

in the "Express Mail" mailing label, not a Postal clerk's "mis-information" alleged in the instant petition.

3. The petition indicates that but for the Postal clerk's "mis-information," Rosen would not have voided the "Express Mail" transaction. However, the reason for voiding the "Express Mail" transaction, as documented by the Postal clerk in Rosen's refund request, a copy of which is submitted with the petition, is that Rosen "changed his mind about mailing Express Mail." This refund request does not aid in the argument presented in the petition.

4. To benefit from the provisions of §1.10, the correspondence must have been deposited in the "Express Mail" **prior to the last scheduled pickup for that day**.

   The voided "Express Mail" payment receipt, a copy of which is supplied with the petition, indicates a transaction time of 7:38pm on August 29, 2002. The petition and the accompanying papers also point to why Rosen **attempted** to, but could not and did not, deposit the instant application papers in the USPS "Express Mail" on August 29, 2002: Rosen arrived at the post office after the last scheduled pickup for "Express Mail" for that day.[3]

In view of the above, the Office does not find any error, on the part of the USPS, that resulted in the presently accorded filing date of September 3, 2002. The petition is thus dismissed. No fee is required for petitions under 37 CFR 1.10.

Finally, the Office acknowledges receipt on December 27, 2002 of: the $370 basic filing fee (small entity); a "Declaration and Power of Attorney for Patent Application" and $65 surcharge (small entity) for late filing of a proper oath/declaration and/or the basic filing fee; $55 for a 1-month extension of time for filing these items in response to the October 1, 2002 Notice to File Missing Parts of Nonprovisional Application; a Preliminary Amendment; and a set of drawings.

The power of attorney and the new correspondence address have been entered and made of record.

The application is being returned to the Office of Initial Patent Examination for further processing with the filing date of September 3, 2002. Thereafter, the application will be forwarded to the appropriate Technology Center for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions

Attachment: Notice of Acceptance of Power of Attorney

---

[3] See "Declaration of Murray W. Rosen" enclosed with Petition, page 1, paragraph 4 (I located a branch of the Post Office that was open in the evening . . ..); page 2, paragraph 7 (I was informed by the postal employee that . . . I was depositing the envelope **in the evening . . . the last shipment for the day had already left.**). (emphasis added)

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Paper No. 12

MICHAEL R. FRISCIA
WOLFF & SAMSON
5 BECKER FARM ROAD
ROSELAND, NJ 07068-1776

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SEP 15 2003

OFFICE OF PETITIONS

In re Application of
Casabona et al.
Application No. 10/234,434
Filed: September 3, 2002
Attorney Docket No. 9732/1

ON PETITION

This decision concerns the May 12, 2003 "Request for Reconsideration of Dismissal of Petition under 37 CFR 1.10(d) to Accord Filing Date as Date of Deposit with U.S. Postal Service" which, in essence, is a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.10, and is being properly treated as a renewed petition under 37 CFR 1.10(d).

The renewed petition is **DISMISSED.**

The previous petition under 37 CFR 1.10(d), filed on November 12, 2002, requested an earlier filing date of August 29, 2002, the day the application papers were deposited in the U.S. Postal Service (USPS) **Priority Mail** service, rather than the presently accorded filing date of September 3, 2002, the day the application was received in the USPTO. The basis for Applicants' request was that, but for the Postal clerk's mis-information, the application would have been deposited in the USPS "Express Mail Post Office to Addressee" service ("Express Mail") on that day.

That argument was found to be without merit. Consequently, the petition was dismissed since the instant application, not having been mailed through the USPS "Express Mail" service, was properly accorded the September 3, 2002 filing date, the day the application was received in the USPTO.

The instant renewed petition re-iterates the previous argument and has not supplied any relevant evidence or argument to support the requested filing date. The renewed petition is thus dismissed.

The application is being forwarded to Technology Center 2600 for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions

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DIW Sep-06

WARE FRESSOLA VAN DER SLUYS &
ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

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SEP 11 2006

OFFICE OF PETITIONS

In re Patent No. 6,750,484	:	
Issued: 15 June, 2004	:	
Application No. 10/234,438	:	ON PETITION
Filed: 30 August, 2002	:	
Atty Dckt No. 536-009.002-2	:	

This is a decision on the petition filed on 13 October, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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Commissioner for Patents
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Alexandria, VA 22313-1450
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ANTHONY NIEWYK, ESQ.
BAKER & DANIELS LLP
111 EAST WAYNE STREET
SUITE 800
FORT WAYNE, IN 46802

COPY MAILED

DEC 18 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
David Dodson, et al. :
Application No. 10/234,499 :
Filed: December 2, 2002 :
Attorney Docket No. HER0104 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 14, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 27, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 28, 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 continuing application under 37 CFR 1.53(b); (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/893,135.

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

April M. Wise
Petitions Examiner
Office of Petitions

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Paper No. 7

Schwegman, Lundberg, Woessner & Kluth, P.A.
P. O. Box 2938
Minneapolis, MN 55402

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JUL 2 8 2004

OFFICE OF PETITIONS

In re Application of	:	
David H. Calhoun, et al.	:	
Application No. 10/234,524	:	ON PETITION
Filed: September 4, 2002	:	
Attorney Docket No. 109.025US4	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 20, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Since the $1005 extension of time fee submitted with the present petition was subsequent to the end of the 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 the undersigned at (703) 306-3475.

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

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

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ANTONELLI TERRY STOUT AND KRAUS LLP
1300 N 17TH ST STE 1800
ARLINGTON, VA 22209

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Hans Daniel Dreyer	:	
Application No. 10/234,533	:	DECISION ON PETITION
Filed: September 5, 2002	:	TO WITHDRAW
Attorney Docket No. 23952-0144	:	FROM RECORD
	:	

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

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to ANTONELLI TERRY STOUT AND KRAUS LLP has been revoked by the assignee of the patent application on May 30, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

cc: SUTHERLAND II
SUTHERLAND, ASBILL & BRENNAN, LLC
999 PEACHTREE STREET
ATLANTA GA 30309

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AUG - 8 2005

WORKMAN NYDEGGER
(F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

In re application of Jason Bosarge, et al Application No. 10/234,564 Filed: September 4, 2002 For: METHOD AND APPARTUS FOR ADDING ADVERTISING TAG LINES TO ELECTRONIC MESSAGES	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the renewed petition filed on February 23, 2005, to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
571-272-6619

RAR/dcg: 7/11/05

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Date Mailed: March 26, 2008

WORKMAN NYDEGGER
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

Applicant: Bosarge et al.
Appl. No.: 10/234,564
Filing Date: September 4, 2002
Title: METHOD AND APPARATUS FOR ADDING ADVERTISING TAG LINES TO ELECTRONIC MESSAGES
Attorney Docket No.: 16115.1
Pub. No.: US 2003/0191689 A1
Pub. Date: October 9, 2003

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on March 13, 2008, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office 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.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because the Applicant submitted the papers as a "Document for an existing application", which are entered into the application file, and not as a "Pre-Grant Publication" submission. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission.

Any questions or requests for reconsideration of the 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: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Data Management at 571-272-4200.

Tammy J. Koontz
Program & Management Analyst
Office of Data Management

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Adjustment date: 03/27/2008  KKING1
03/13/2008 INTEFSW  00011045 10234564
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Refund Ref:
03/27/2008          0030052832
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Credit Card Refund Total:      $300.00

Am Exp..: XXXXXXXXXXX5007
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JUL 06 2009

John Guynn
WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

In re Application of Jason Bosarge et al. Application No. 10/234,564 Filed: September 4, 2002 For: METHOD AND APPARATUS FOR ADDING ADVERTISING TAG LINES TO ELECTRONIC MESSAGES	: : : : : : :	DECISION ON PETITION TO WITHDRAW THE RESTRICTION REQUIREMENT

Applicants' petition filed on May 7, 2008 requests reinstatement of claims withdrawn under a restriction requirement as set forth in the Office action mailed October 31, 2007 which was made final on April 2, 2008. Applicants further request an examination on the merits of all pending claims.

The petition is **GRANTED**.

A review of the record reveals that the Office action mailed October 31, 2007 set forth a restriction requirement between Group I (Claims 94-111), Group II (Claims 113-126), Group III (Claims 127-135), Group IV (Claims 136-139), and Group V (Claims 140-142). Applicants responded with an election (Group II) on November 27, 2007 and claim amendments where claims were amended such that Group II would include Claims 95-109, 113-126 and 136-142, and withdrawing Claims 94, 110, 111, and 127-135. The Examiner made the restriction requirement Final in the Final rejection mailed April 2, 2008 but examined only those claims of original Group II (Claims 113-126) and withdrew Claims 94-111 and 127-142. This petition was then timely filed.

Applicants' petition alleges that the restriction requirement is improper because "it was untimely, burdensome and unnecessary in view of the fact that each of claims 94-135 had been previously examined multiple times." Additionally, the petition requests that the Director withdraw the "final requirement for restriction set forth in the Office Action dated April 2, 2008 refusing to

examine claims 95-109 and 136-142 even though these claims are combinations of the elected subcombination of claim 113," as being improper. After reviewing the previously examined claims and the claim amendments made November 27, 2007, it has been found that it is not deemed to be a significant burden on the examiner to examine elected Claims 95-109, 113-126 and 136-142 as these claims were examined multiple times in previous Office actions.

For the foregoing reasons, the Examiner's restriction requirement is deemed to be improper.

The application is being forwarded to the examiner for consideration of all of the elected claims pending as of the amendment filed November 27, 2007 (Claims 95-109, 113-126 and 136-142 are pending while Claims 94, 110, 111, and 127-135 stand withdrawn, based upon the election by the applicant without traverse of the above claims). An appropriate Office response will follow in due course.

Telephone inquiries regarding this decision should be directed to Eric Stamber, Supervisory Patent Examiner for Art Unit 3622, at (571) 272-6724.

Wynn Coggins, Director
Technology Center 3600
(571) 272-5350

EWS/snm: 6/30/09

SM

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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Jason Bosarge	: DECISION ON REQUEST FOR
Patent Number	: 7599852	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/234,564	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/04/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1053** 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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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 05/18/2010

Applicant : Jason Bosarge
Patent Number : 7599852
Issue Date : 10/06/2009
Application No : 10/234,564
Filed : 09/04/2002

: 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 **1099** 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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Dennison, Schultz & Dougherty
1727 King Street, Suite 105
Alexandria, VA 22314

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MAR 1 4 2006

OFFICE OF PETITIONS

In re Application of :
Ching-Chen Chen :
Application No. 10/390,634 : DECISION ON PETITION
Filed: March 19, 2003 :
Attorney Docket No. 3210/22 :

This is a decision on the petition under 37 CFR 1.181, filed February 8, 2006, to withdraw the holding of abandonment in the above-identified application.

On July 29, 2005, the Office mailed a Corrected Notice of Allowance and Fee(s) Due ("Corrected Notice of Allowance"), which set a three-month statutory period for reply. In the absence of the timely payment of the issue fee and publication fee, the application became abandoned on October 30, 2005. On December 5, 2005, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requested that the Office withdraw the holding of abandonment due to non-receipt of the Corrected Notice of Allowance mailed on July 29, 2005. The practitioner stated that a "second" Notice of Allowance was mailed on July 29, 2005, but was never received. The practitioner submitted a copy of the office's mail log from July 29, 2005 to August 12, 2005, with the case docket history, as evidence that the Corrected Notice of Allowance was not received.

A review of the record indicates no irregularity in the mailing of the Corrected Notice of Allowance of July 29, 2005, and in the absence of any irregularity in the mailing, there is a strong presumption that the Corrected Notice of Allowance was properly mailed to the address of record. This presumption may be overcome by a showing that the Corrected Notice of Allowance was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's

statement. For example, if a three-month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action.

The showing of record is insufficient to warrant withdrawal of the holding of abandonment at this time. It is not readily apparent from the documentary evidence submitted on petition that the Corrected Notice of Allowance was not received. Initially, the Office notes that the practitioner did not provide a statement "attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received." MPEP 711.03(c)(I)(A). Additionally, the Office requests further clarification of the firm's practice for docketing communications from the USPTO. Unfortunately, the firm's docketing system is not apparent from the docket records submitted with this petition.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." 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 the application.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

EDWARD W. CALLAN
NO. 705 PMB 452
3830 VALLEY CENTRE DRIVE
SAN DIEGO, CA 92130

In re Application of
Gorelik, et al.
Application No.: 10/234,580
Filed: August 30, 2002
Attorney Docket No: 0752-021001

ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed April 30, 2007.

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 non-final Office action mailed June 17, 2005. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A response was received within the allowable period and the application became abandoned on September 18, 2005. A Notice of Abandonment was mailed on January 24, 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 items (1) and (3) above.

As to item (1), the Request for Continued Examination is not a proper response to a non-final Office action. A Request for Continued Examination (RCE) should only be filed when a rejection is made final. See 37 CFR 1.114. The renewed petition must be accompanied by a proper response to the non-final Office action, which would be either an amendment or a continuing application. The fee for the RCE of $395.00 will be refunded in due course.

As to Item (3), the *Manual of Paten Examining Procedure*, Section 7711.03(c) provides, in pertinent part, that:

> >Where a petition pursuant to 37 CFR 1.137(b) is not filed within 1 year of the date of abandonment of the application (note that abandonment takes place by operation of law, rather than by the mailing of a Notice of Abandonment), the Office may require:
>
> (A) further information as to when the applicant (or the applicant's representative) 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 (or applicant's representative).<
>
> To avoid delay in the consideration of the merits of a petition under 37 CFR **>1.137(b)< 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(a) or 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application.

Petitioner did not provide not explanation for the seventeen month delay in filing the instant petition. Accordingly, the renewed petition must be accompanied by an explanation for said delay including, but not limited to, the considerations provided in MPEP § 711.03(c) cited above.

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

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosures:
"Notice Regarding Change of Power of Attorney"
"Notice of Acceptance of Power of Attorney"

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/234,580	08/30/2002	Vladimir Semenovich Gorelik	07252-021001

CONFIRMATION NO. 2596

OC000000025207905

22653
EDWARD W CALLAN
NO. 705 PMB 452
3830 VALLEY CENTRE DRIVE
SAN DIEGO, CA 92130

Date Mailed: 08/06/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/30/2007.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/234,580	08/30/2002	Vladimir Semenovich Gorelik	07252-021001

CONFIRMATION NO. 2596

OC000000025207904

20985
FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Date Mailed: 08/06/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/30/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/234,580	08/30/2002	Vladimir Semenovich Gorelik	07252-021001

CONFIRMATION NO. 2596

OC000000025207904

20985
FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Date Mailed: 08/06/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/30/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

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

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EDWARD W CALLAN
NO. 705 PMB 452
3830 VALLEY CENTRE DRIVE
SAN DIEGO CA 92130

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APR 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Gorelik et al.	:	
Application No. 10/234,580	:	ON PETITION
Filed: 08/30/2002	:	
Attorney Docket No. 07252-021001	:	

This is in response to the communication submitted on October 9, 2007.

On June 17, 2005, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period for reply. In the absence of a timely filed reply, the application became abandoned on September 18, 2005. A Notice of Abandonment was mailed on January 24, 2006. On April 30, 2007, petitioners submitted a petition under 37 CFR 1.137(b), a reply in the form of a Request for Continued Examination and an amendment, and the petition fee. The petition was dismissed by the decision of August 6, 2007.

Upon further review, the Office has determined that the decision of August 6, 2007, was mailed in error and is hereby **vacated**. The Office notes that if prosecution in the application is not closed, as is in this matter, applicant will be notified of the improper RCE and any amendment will be entered. See MPEP 706.07(h)(III)(A)(1). Thereafter, the application will be forwarded to the examiner for consideration of the amendment under 37 CFR 1.111. Id.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the petition fee, and made the proper statement of unintentional delay. Accordingly, the petition under 37 CFR 1.137(b) is **GRANTED**.[1]

[1] The granting of a petition under 37 CFR 1.137 is not a determination that any reply under 37 CFR 1.111 is complete. After revival of the application, the patent examiner may, upon more detailed review, determine that the reply is lacking in some respect. MPEP 711.03(c)(II)(A)(2)(a).

This matter is being referred to Technology Center Art Unit 2877 for consideration of the amendment filed on April 30, 2007.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF THE DIRECTOR
TC 3600

John D. Jeter
1403 Teche Drive
St. Martinsville, LA 70582

Paper No. 4

In re application of
Chad M. Daigle et al.
Application No.10/234,582
Filed: September 3, 2002
For: ADJUSTABLE DEFLECTING SUB

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(APPLICANT'S AGE)**
:

This is a decision on the petition submitted on September 3, 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 declaration by Thomas E. Falgout, Sr. that he is at least 65 years old.

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/10/20/03

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:02222006

DATE : February 22, 2006

TO SPE OF : ART UNIT 1744

SUBJECT : Request for Certificate of Correction on Patent No.: 6,760,949

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 change to column 1, line 5 adding the priority claim is DENIED in that it must be further accompanied by a petition under 37 CFR 1.78 and surcharge. The change to column 1, line 26 is DENIED in that there is no term "subjected" as indicated. The other three changes (column 1, line 50, column 4, line 27 and column 5, line 14) are Approved.

GLADYS J.P. CORCORAN
PRIMARY EXAMINER
SPE 1744

UNITED STATES PATENT AND TRADEMARK OFFICE

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

April 2, 2007

Stephen E. Feldman
12 East 41st Street
New York, NY 10017

Patent No.: 6760949 B2
Application No.: 10/234587
Inventor(s): Kaminstein et al.
Issued: July 13, 2004
Title: **ROTATING DISH BRUSH**

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

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

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AUG 0 9 2007

OFFICE OF PETITIONS

Stephen E. Feldman, P.C.
12 East 41st Street
New York NY 10017

In re Patent No. 6,760,949	:	
Issue Date: July 13, 2004	:	
Application No. 10/234,587	:	ON PETITION
Filed: September 4, 2002	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 3.81(b), filed April 16, 2007, to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "Kaminstein Imports, Inc."

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment from Bruce Kaminstein and Flavio Cavalheiro to Kaminstein Imports, Inc. was recorded on November 13, 2006, **after the date of issuance of this patent.**

Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

In view of the above, the $100 certificate of correction fee submitted on November 20, 2006 will be refunded to petitioner's deposit account.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FEB 19 2008

Stephen E. Feldman, P.C.
12 East 41st Street
New York, NY 10017

In re Patent No. 6,760,949
Issue Date: July 13, 2004
Application No. 10/234,587
Filed: September 4, 2002
Attorney Docket No. N/A

: DECISION DISMISSING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: REQUEST FOR CERTIFICATE OF
: CORRECTION
:

This is a decision on the petition, filed May 1, 2006, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 10/142,489, filed May 9, 2002, by way of a certificate of correction. The delay in responding is regretted

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed September 4, 2002. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

The petition is **dismissed**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

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

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

The petition does not satisfy item (1) above.

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

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and a new Certificate of Correction form to correct 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: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucci
Petitions Examiner

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper N .: _____

DATE : February 1, 2006

TO SPE OF : ART UNIT 1714

SUBJECT : Request for Certificate of Correction on Patent No.: 6,890,968

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. (See Comments below)
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

The requested change in col 15, lines 54-55 is supported by claim 36 as set forth in the amendment filed 12/2/04. And, the requested change in the Key, Fig 1 is supported at col. 6, lines 54-55.

Casu Jagannathan — **SPE**

1714 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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JUN 7 2006

Koda & Androlia
Suite 1430
2029 Century Park East
Los Angeles CA 90067

In re Application of Tomokazu ITO Application No. 10/234,602 Filed: September 4, 2002 For: PAN/TILT CAMERA SYSTEM	: : : : :	DECISION ON PETITION

This is a decision on the petition filed December 18, 2003, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is GRANTED.

A non-final Office action was mailed May 7, 2003, setting a three-month shortened statutory period for filing a response. In the absence of a response, the application was held abandoned and a Notice of Abandonment was mailed December 12, 2003.

Petitioner asserts that a response was timely filed by facsimile transmission on August 5, 2003. To support the assertion, petitioner submitted 1) a copy of a response entitled "Amendment" which bears a Certificate of Transmission under 37 C.F.R. § 1.8(a) dated August 5, 2003, 2) a copy of the sending unit's report confirming successful transmission of the Amendment on August 5, 2003 and 3) a copy of the change of correspondence address filed with the response.

A review of the application file record reveals that the above-identified response is not of record in the application file and cannot be located. However, 37 CFR § 1.8(b) provides for accepting a correspondence as being timely filed if it is transmitted in accordance with 37 CFR § 1.8(a), and is reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered

> timely if the party who forwarded such correspondence: (1) informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence; (2) supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and (3) includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition meets the conditions of 37 CFR § 1.8(b) to establish the previous timely filing of the response.

The application file is being forwarded to the technical support staff for processing the Amendment and change of correspondence address. From there, it will be returned to the examiner for further prosecution.

Questions regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.

Arthur Grimley, Acting Director
Technology Center 2800
Semiconductor, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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BELL & ASSOCIATES
201 WARREN DRIVE
SAN FRANCISCO, CA 94131

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OFFICE OF PETITIONS

In re Application of

Fan, et al.

Application No. 10/234,618

Filed: September 4, 2002

Attorney Docket No. 54754-5001US

DECISION ON PETITION

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 28, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No extensions of time were obtained within the allowable period. Accordingly, the application became abandoned on September 29, 2005. A Notice of Abandonment was mailed on February 22, 2006.

The amendment filed November 15, 2006, is noted.

"The Revocation of Previous Powers of Attorney and Appointment of Attorney" filed November 15, 2006, is also noted and made of record.

The application is being forwarded to Technology Center 1600, GAU 1651 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

Enclosure: "Notice of Acceptance of Power of Attorney"
"Notice Regarding Change of Power of Attorney"

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

DAVIS WRIGHT TREMAINE, LLP/Seattle
1201 Third Avenue, Suite 2200
SEATTLE, WA 98101-3045

Mail Date: 04/21/2010

Applicant	: Douglas R. de la Torre	: DECISION ON REQUEST FOR
Patent Number	: 7636724	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/234,636	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/03/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1432** 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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O'MELVENY & MYERS, LLP
275 BATTERY STREET
SUITE 2600
SAN FRANCISCO, CA 94111-3305

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NOV 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Bonora, et al.	:	
Application No. 10/234,640	:	ON PETITION
Filed: September 3, 2002	:	
Attorney Docket No. 34741-865	:	

This is a decision on the petition under 37 CFR 1.181, filed October 17, 2005, to withdraw the holding of abandonment.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed December 30, 2004. Accordingly, this application became abandoned on March 31, 2005. A Notice of Abandonment was mailed on September 22, 2005.

Petitioner asserts the Office action was not received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

The required statements and docket records have been submitted and reviewed. As such, the petition is granted and the holding of abandonment is withdrawn.

The file is being forwarded to Technology Center 3600 for re-mailing of the Office action with a new period for response.

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

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

Campbell Stephenson Ascolese LLP
Building 4, Suite 201
4807 Spicewood Springs Road
Austin TX 78759

COPY MAILED

FEB 12 2003

OFFICE OF PETITIONS

In re Application of
Tran and Khieu
Application No. 10/234,657
Filed: September 4, 2002
Attorney Docket No. SUN0121US
For: CIRCUIT AND METHOD FOR DYNAMICALLY CONTROLLING THE IMPEDANCE OF AN INPUT/OUTPUT DRIVER

DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed December 2, 2002.

The petition is granted.

Petitioner has shown that Cong Q. Khieu, the non-signing inventor, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the Declaration of Facts of Eric A. Stephenson establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he 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 2100 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060726

DATE : July 26, 2006

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction on Patent No.: 6,856,934

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: Marc Hoff **Art Unit** 2857

08-04-05

10/234,660.

PATENT
Attorney Docket No.: 404283
Express Mail Label No.: EV 509127838 US

OIPE JC81
AUG 03 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Number: 6,856,934 B2

Issued: February 15, 2005

Name of Patentee: Curtis A. Vock, et al.

Title of Invention: Sport Monitoring Systems and Associated Methods

Certificate
AUG 15 2005
of Correction

Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR OFFICE MISTAKES (37 C.F.R. 1.322(a)) AND/OR FOR APPLICANT'S MISTAKES (37 C.F.R. 1.323)

Dear Sir:

1. Attached, in duplicate, is one Form PTO/SB/44, with at least one copy being suitable for printing.

2. The exact column and line numbers where errors exist due to Office mistakes are:

Not Applicable

3. The exact column and line numbers where errors exist due to Applicant's mistakes, and the types of mistakes being corrected, are:

a. Mistake of Minor Character

Not Applicable

b. Mistake of a Typographical Nature

Column 30, Line 5, delete "with the housing".

Applicants contend that none of the corrections requested for errors due to Applicant's mistakes involve changes which would constitute new matter or require reexamination.

08/05/2005 SDENBOB1 00000025 120600 6856934
01 FC:1811 100.00 DA

AUG 16 2005

4. Please charge to Deposit Account 12-0600 the sum of $100.00, please charge any fees required or credit any overpayment to Deposit Account 12-0600 pursuant to 37 CFR 1.20(a).

5. Please send the Certificate to:

Name: Curtis A. Vock
Address: Lathrop & Gage, L.C.
4845 Pearl East Circle
Suite 300
Boulder, CO 80301

Respectfully submitted,

LATHROP & GAGE L.C.

Curtis A. Vock, Reg. No. 38,356
4845 Pearl East Circle, Suite 300
Boulder, Colorado 80301
(720) 931-3011 Telephone
(720) 931-3001 Facsimile

AUG 1 6 2005

AUG 03 2005

PTO/SB/17 (12-04v2)
Approved for use through 07/31/2006. OMB 0651-0032
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 10/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL for FY 2005

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 100.00

Complete if Known	
Patent Number	6,856,934 B2
Issue Date	February 15, 2005
First Named Inventor	Curtis A. Vock
Examiner Name	E. Raymond
Art Unit	2857
Attorney Docket No.	404283

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify) : _____

☒ Deposit Account Deposit Account Number: 12-0600 Deposit Account Name: LATHROP & GAGE LC

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments of fee(s) Under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

	FILING FEES		SEARCH FEES		EXAMINATION FEES		
		Small Entity		Small Entity		Small Entity	
Application Type	Fee ($)	Fee($)	Fee($)	Fee($)	Fee($)	Fee($)	Fees Paid ($)
Utility	300	150	500	250	200	100	____
Design	200	100	100	50	130	65	____
Plant	200	100	300	150	160	80	____
Reissue	300	150	500	250	600	300	____
Provisional	200	100	0	0	0	0	____

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 30 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee($)	Fee Paid ($)
__ ___ or HP=		x	= $0

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee($)	Fee Paid ($)
__ ___ or HP=	0	x	= $0

HP = highest number of independent claims paid for, if greater than 3.

Multiple Dependent Claims	
Fee ($)	Fee Paid ($)
____	$0

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee ($)	Fee Paid ($)
__ - 100 =	0 / 50 =	0 (round up to a whole number)	x ____	= $0

4. OTHER FEE(S) — Fees Paid ($)

Non-English Specification, $130 fee (no small entity discount) $100.00

Other (e.g., late filing surcharge) : Certificate of Correction

SUBMITTED BY

Signature	Curtis A. Vock	Registration No. (Attorney/Agent)	38,356	Telephone	(720) 931-3011
Name (Print/Type)	Curtis A. Vock			Date	August 3, 2005

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing this form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

AUG 16 2005

OIPE JC81
AUG 03 2005
PATENT & TRADEMARK OFFICE

PTO/SB/21 (04-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Patent Number	6,856,934 B2
Issue Date	February 15, 2005
First Named Inventor	Curtis A. Vock, et al.
Art Unit	2857
Examiner Name	Edward Raymond
Total Number of Pages in This Submission: 8	Attorney Docket Number: 404283

ENCLOSURES *(check all that apply)*

- ☒ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment / Reply
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Response to Missing Parts/ Incomplete Application
  - ☐ Response to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) _____
- ☐ After Allowance Communication to Technology Center (TC)
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
- ☐ Proprietary Information
- ☐ Status Letter
- ☒ Other Enclosure(s) *(please identify below)*:

  Request for Certificate of Correction; Certificate of Correction; Certificate of Mailing

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Curtis A. Vock Lathrop & Gage, LC
Signature	Curt A. Vock
Date	August 3, 2005

CERTIFICATE OF MAILING 37 CFR 1.10

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as Express Mail Post Office to Addressee (Label No. EV509127838US) in an envelope addressed to: Certificate of Correction Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Mimi Nguyen		
Signature	Mimi Nguyen	Date	August 3, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 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.

AUG 16 2005

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AUG 0 3 2005
PATENT & TRADEMARK OFFICE

CERTIFICATE OF MAILING BY EXPRESS MAIL POST OFFICE TO ADDRESSEE (37 CFR 1.10)			Matter No.
Patentee(s) Curtis A. Vock, et al.			404283
Patent No.	Issue Date	Examiner	Group Art Unit
6,856,934 B2	February 15, 2005	Edward Raymong	2857

Invention SPORT MONITORING SYSTEMS AND ASSOCIATED METHODS

I hereby certify that this Transmittal Form (1 page); Request For Certificate of Correction Of Patent For Office Mistakes (37 CFR 1.322(a)) and/or For Applicant's Mistakes (37 CFR 1.323) (2 pages); Certificate of Correction (1 page in duplicate); Fee Transmittal (1 page in duplicate) and return post card are being mailed in an envelope addressed to: Certificate of Correction Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 3rd day of August, 2005.

Mimi Nguyen
Name of Depositor

Signature of Depositor

EV509127838US
Express Mail Label No.

AUG 1 6 2005

PTO/SB/44 (07-03)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 6,856,934 B2

DATED : February 15, 2005

INVENTOR(S) : Curtis A. Vock, Peter Flentov, Dennis M. Darcy

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

Column 30, Line 5, delete "with the housing".

MAILING ADDRESS OF SENDER: Curtis A. Vock
Lathrop & Gage L.C.
4845 Pearl East Circle, Suite 300
Boulder, CO 80301

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 Informati 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.

PATENT NO. 6,856,934 B2

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

AUG 1 6 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CAVEN & AGHEVLI
c/o INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS, MN 55402

COPY MAILED

SEP 12 2007

OFFICE OF PETITIONS

In re Application	:	
Ole Christiansen	:	
Application No. 10/234,666	:	DECISION ON PETITION
Filed: September 3, 2002	:	
Attorney Docket No. P14502	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 15, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice mailed on June 13, 2007, which set a period for reply of sixty (60) days. Accordingly, this application became abandoned on August 14, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $1500.00, and (3) a proper statement of unintentional delay.

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

This application is being referred to Publishing Division for further processing in accordance with this decision accepting the late submission of corrected drawings.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CENTRAL COAST PATENT AGENCY, INC
3 HANGAR WAY
SUITE D
WATSONVILLE, CA 95076

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SEP 11 2009

OFFICE OF PETITIONS

In re Patent No. 6,735,298	:	
Issue Date: May 11, 2004	:	
Application No. 10/234,691	:	ON PETITION
Filed: September 3, 2002	:	
Attorney Docket No. P3262C1	:	

This is a decision on the petition under 37 CFR 1.378(c), filed July 16, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

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.

This patent expired on May 11, 2008 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The petition states that the "abandonment of this application was unintentional." 37 CFR 1.378(c) requires a statement that "the delay in payment of the maintenance fee was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.378(c)(3), the statement will be construed as the statement required by 37 CFR 1.378(c)(3). If this is an incorrect reading of the statement appearing in the petition, petitioner must promptly notify the Office.

In view of the above, the petition is **GRANTED**.

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

Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) are submitted.

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

The patent file is being forwarded to Files Repository.

April M. Wise
Petitions Examiner
Office of Petitions

cc: GREGORY J. MURGIA
ALCATEL-LUCENT USA, INC.
DOCKET ADMINISTRATOR-ROOM 2F-190
600-700 MOUNTAIN AVENUE
MURRAY HILL, NJ 07974-0636

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEP -2 2004

In re Application of	:	
Michael A. Davies	:	
Serial No. 10/234,743	:	DECISION ON PETITION
Filed: September 4, 2002	:	TO WITHDRAW AS ATTORNEY
For: OVERSIZED PAPER WITH	:	
CUTOUT	:	

By papers filed on May 13, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that all future correspondence from the Office will be sent to the new correspondence address listed below:

Mr. Michael A. Davies
Davies Builders
P.O. Box 16
Fairfax, CA 94978

E. Rollins-Cross, Director
Technology Center 3700

Virginia H. Meyer, Esq.
475 Gate Five Road, Suite 275
Sausalito, CA 94965

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROSENFELD LAW CORPORATION
2165 FILBERT STREET
SUITE 200
SAN FRANCISCO CA 94123

COPY MAILED
MAY 11 2006
OFFICE OF PETITIONS

In re Application of Davies Application No. 10/234,743 Filed: September 4, 2002 Attorney Docket Number: 6418/53655 Title of Invention: Oversized Paper with Cutout	:	ON PETITION

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

This petition is hereby **Dismissed**.

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

This application became abandoned for failure to timely submit the issue and publication fee, as required by the Notice of Allowance and Fees Due, which was mailed October 26, 2005 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 January 27, 2006. This decision precedes the mailing of a Notice of Abandonment.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional"; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d))

required 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).

A review of the petition submitted shows that the petition was not properly signed pursuant to 37 CFR 1.4(d)(2)(I). The S-Signature submitted on the petition filed via EFS is deemed improper because there are double slash marks before and after the name. 37 CFR1.4(d)(2)(I) requires that S-Signatures contain a single forward slash mark before and a single forward slash mark behind the signers name.

A properly executed petition must be submitted.

The petition has **not** been reviewed on its merits

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROSENFELD LAW CORPORATION
2165 FILBERT STREET
SUITE 200
SAN FRANCISCO CA 94123

COPY MAILED
JUN 0 2 2006
OFFICE OF PETITIONS

In re Application of :
Davies :
Application No. 10/234,743 : ON PETITION
Filed: September 4, 2002 :
Attorney Docket Number: 6418/53655 :
Title of Invention: Oversized Paper with Cutout :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 21, 2006, to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fee, as required by the Notice of Allowance and Fees Due, which was mailed October 26, 2005 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 January 27, 2006. This decision precedes the mailing of a Notice of Abandonment. A petition filed under 37 CFR 1.137(b) was dismissed on May 11, 2006.

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

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

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

APR 20 2004

Paper No. 7

In re Application of
Drew B. Peroni *et al*
Application No. 10/234,752
Filed: September 4, 2002
Attorney Docket No. 285/1

: DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on March 29, 2004 by which petitioners request withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the Office action dated August 28, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

As a preliminary matter, it is noted that petitioners have furnished a copy of a new power of attorney and change of correspondence address that was filed on August 14, 2003 together with a copy of a post card receipt indicating that this paper was in fact received in the Office on August 14, 2003. That paper will be entered.

Petitioners allege that this application is not abandoned because a timely and proper reply to the Office letter in question was in fact filed on November 20, 2003. Petitioners support this allegation by furnishing a copy of a reply, and a copy of filing receipt for the reply showing that the reply was in fact received in the Office on November 20, 2003, a date within the period set for filing a reply as set by the Office letter in question. Based upon this evidence, 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 new power of attorney and change of correspondence address in both the application file and the PALM system. Thereafter, the application will be forwarded to the examiner for action on the amendment filed November 20, 2003.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Law Office of Leo Zucker
Suite 480
50 Main Street
White Plains, NY 10606-1964

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OCT 1 9 2005

OFFICE OF PETITIONS

STEVEN I. WEISBURD
DICKSTEIN SHAPIRO MORIN & OSHINSKY
41ST FLOOR
1177 AVENUE OF THE AMERICAS
NEW YORK NY 10036-2714

In re Application of	:	
Kazuya Sayanagi et al	:	
Application No. 10/234,796	:	ON PETITION
Filed: September 3, 2002	:	
Attorney Docket No. M1071.1757/P1757	:	

This is a decision on the petition, filed October 18, 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 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) 272-3208.

The examiner of Technology Center AU 2817 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.

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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MAY 0 4 2009

OFFICE OF PETITIONS

In re Application of	:	
Sean M. Furuness et al.	:	
Application No. 10/234,821	:	DECISION ON PETITION
Filed: September 4, 2002	:	PURSUANT TO
Attorney Docket No.:	:	37 C.F.R. § 1.137(B)
TELLP004	:	
Title: SYSTEMS AND METHODS	:	
FOR FRAME SYNCHRONIZATION	:	
	:	

This is a decision on the petition filed August 29, 2008, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

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

The concurrently submitted Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address has been entered and made of record.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed October 31, 2007, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no response was received. Accordingly, the

above-identified application became abandoned on February 1, 2008. A notice of abandonment was mailed on June 6, 2008.

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

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, a Request for Continued Examination (RCE) along with the associated fee, an amendment, and the proper statement of unintentional delay.

The first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment received on August 29, 2008 - can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status**.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries

1 See Rule 1.137(d).

concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

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

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KAREN J. MESSICK, ESQ.
KOS PHARMACEUTICALS, INC.
1001 BRICKELL BAY DRIVE 25TH FLOOR
MIAMI FL 33131

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OFFICE OF PETITIONS

In re Application of	:	
Akwete et al.	:	DECISION ON PETITION
Application No. 10/234,825	:	UNDER 37 CFR 1.137(b)
Filed: September 3, 2002	:	
Attorney Docket No. 540541-2005.2	:	

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

This application became abandoned for failure to reply timely to the nonfinal Office Action mailed July 14, 2004, which set a three (3) month shortened statutory period to reply. Accordingly, this application became abandoned on October 15, 2004. A Notice of Abandonment was mailed on January 26, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment, paid the petition fee, and made the proper statement of unintentional delay.

The petition is **granted**.

This matter is being referred to Technology Center Art Unit 1616.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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April 1, 2004

Michael D. Stein
Staas & Halsey
1201 New York Ave., N.W., Suite 700
Washington, DC 20005

In re application of:
Won-choul Yang DECISION ON PETITION
Serial No.: 10/234,846
Filed: September 5, 2002
For: DUMMY WRITE METHOD FOR IMPROVING PERFORMANCE OF DATA STORAGE SYSTEM AND APPARATUS THEREFOR

This is a decision on the petition received on January 30, 2004, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed August 30, 2002. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned October 31, 2002. The notice of abandonment was mailed on January 22, 2004.

On January 30, 2004, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney never received the Notice to File Missing Parts mailed August 30, 2002.

The evidence submitted is sufficient to establish that the petitioners never received the Notice to File Missing Parts mailed August 30, 2002.

The petition is hereby Granted.

Enclosed is new Notice to File Missing Parts giving counsel 2 months from the date of the notice to respond.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

Enclosure: 1

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: AUG 2 5 2004

rvk
Paper Number: ____

In re application of
Soichi Oikawa et al
Serial No. 10/234,856
Filed: September 05, 2002
For: PERPENDICULAR MAGNETIC RECORDING MEDIUM AND MAGNETIC RECORDING/REPRODUCING APPARATUS USING THE SAME :

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE RESTRICTION REQUIREMENT UNDER M.P.E.P. 711.03(c), filed June 03, 2004. The petition requests withdrawal of any holding of abandonment which may be issued for failure to timely file a proper response to the Office letter (i.e. Restriction Requirement) dated November 07, 2003. The petitioner asserts that the Office letter of November 07, 2003 was not received by applicants. No actual Notice of Abandonment has as yet been mailed.

DECISION

The instant request is accepted as a 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 Office letter of November 07, 2003 was not received by the petitioner. The evidence provided includes a statement by the petitioner that the Office letter of November 07, 2003 was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office letter mailed November 07, 2003 was not received. Also provided is a copy of the daily mail log of applicants' law firm Pillsbury Winthrop, LLP (Exhibit B) for the two weeks following the mailing of the Office letter of November 07, 2003 where the Restriction Requirement would

have been posted had it been timely received; and 2) a print out of the Attorney's docketing report listing all of the matters due for each day for the time period between December 01, 2003 and December 14, 2003 (Exhibit C) where the Restriction Requirement of SN 10/234,856 with a due date of December 07, 2003 would have been posted had it been timely received.

Therefore, the application shall be forwarded to the examiner for prompt remailing of the above noted Restriction Requirement of November 07, 2003 to the correspondence address and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN, VA 22102

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Thorsten Enders	: DECISION ON REQUEST FOR
Patent Number	: 7583181	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/234,868	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/03/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **458** 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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APR - 6 2005

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of	:
Martin et al.	:
Serial No.: 10/234,874	: PETITION DECISION
Filed: September 4, 2002	:
Attorney Docket No.: 100390-09286	:

This is in response to the petition under 37 CFR 1.181 and 1.144, filed February 4, 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 September 4, 2002, and contained claims 1-20. However, by way of preliminary amendment, claims 1-7 were cancelled and claims 21-28 were added.

On September 20, 2004, the examiner set forth a restriction requirement under 35 U.S.C. 121, as follows:

> Group I. Claims 8-15, drawn to a kit comprising an enzyme-conjugated anti-analyte, an electrochemiluminescent label, an enzyme substrate and a reference standard, classified in class 435, subclass 7.6.
> Group II. Claim 16, drawn to an enzyme-conjugated anti-analyte composition comprising a beta-lactamase-labeled anti-analyte, classified in class 435, subclass 18.
> Group III. Claims 17-20, drawn to an electrochemiluminescent labeled enzyme substrate, classified in class 435, subclass 7.72.
> Group IV. Claims 21-28, drawn to a kit comprising an analyte, an enzyme-bound analyte binding partner, an enzyme substrate and an electrochemiluminescent label, classified in class 423, subclass 7.6.

The examiner stated that the inventions of Groups I-IV were unrelated as the different inventions were drawn to four different compositions, none of which was a subset of another composition. More particularly, the examiner stated that the inventions were not capable of use together and had different modes of operation, different functions and different effects.

On October 20, 2004, applicant filed a response canceling claims 16-20 and electing Group IV, claims 21-28, with traverse.

A non-final Office action was mailed to applicants on November 5, 2004, wherein the examiner acknowledged the election and applicants' traversal. The restriction requirement was repeated and made Final.

DISCUSSION

As set forth in the Office action of April 4, 2005, the examiner has reconsidered her position and has determined that the restriction requirement should not have been imposed. The claims of Group I (claims 8-15) and Group IV (claims 21-28) were therefore rejoined and examined together. Therefore, the petition is moot.

DECISION

The petition is DISMISSED.

Any request for reconsideration of this decision must be made by way of a renewed petition and must be filed within **TWO MONTHS** of the date of mailing of this decision in order to be considered timely.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Bruce M. Kisliuk
Director, Technology Center 1600

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

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OFFICE OF PETITIONS

In re Application of	:	
Alvarez et al.	:	
Application No. 10/234889	:	
Filing or 371(c) Date: 09/03/2002	:	
Attorney Docket Number:	:	
100201206-1	:	ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Notice of Allowance Under 37 C.F.R. § 1.137, filed April 30, 2008. The petition is properly treated under 37 CFR 1.181(a) (no fee).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed December 12, 2007. The Notice set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned on March 13, 2008. A Notice of Abandonment was mailed April 7, 2008.

With the present petition, Applicant has demonstrated non-receipt of the Notices by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2128 for re-mailing of the Notice of Allowance and Issue Fee Due, and Notice of Allowability.

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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Paper No. 6

KILPATRICK STOCKTON LLP
607 14TH STREET, NW
SUITE 900
WASHINGTON, DC 20005

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MAY 16 2003

OFFICE OF PETITIONS

In re Application of George Lissauer, Victor Che Kwong, Jack Hsiung, Reid Kneeland and Dilip Parekh Application No. 10/234,901 Filed: September 4, 2002 Attorney Docket No. CITI0104CIP Title: MULTI-LANGUAGE PHRASE EDITOR AND METHOD THEREOF	DECISION ACCORDING STATUS UNDER 37 CFR § 1.47(a)

This is a decision on the "Petition under 37 C.F.R. § 1.47(a)," filed March 26, 2003.

The petition is **GRANTED**.

The above-identified application was filed on March 26, 2003, naming George Lissauer, Victor Che Kwong, Jack Hsiung, Reid Kneeland and Dilip Parekh as joint inventors. However, the signature of inventors Jack Hsiung and Reid Kneeland were missing from the declaration. Accordingly, on September 30, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring the signatures of inventors Hsiung and Kneeland on an oath or declaration, and a surcharge for late filing. This Notice set a period for reply of two months from the mailing date of the Notice.

On March 26, 2003, applicants responded with a declaration executed by joint inventors Lissauer, Kwong and Parekh on behalf of themselves and on behalf of non-signing inventors Hsiung and Kneeland; the late surcharge under § 1.16(l); and the instant petition (and petition fee). To make this reply timely, a request for extension within the fourth month (and extension fee) accompanied the response.

Rule 47 applicants maintain that status under 37 CFR 1.47 is proper because joint inventors Hsiung and Kneeland refuse to join in the application for patent. 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.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application after having been presented with the application papers. By declarations of patent attorney George T. Marcou, and supporting documentary evidence, petitioner has shown that inventors Hsiung and Kneeland have been presented the application papers and have refused to sign the declaration.

The declaration filed March 26, 2003, and the petition 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 new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 2654 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions

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SUITE 311
BIRMINGHAM, MI 48009

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OFFICE OF PETITIONS

In re Application of
Michael J. Czaplicki et al
Application No. 10/234,902
Filed: September 4, 2002
Attorney Docket No. 1001.069

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

This is a decision on the petition, filed September 16, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 1711 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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McDermott Will & Emery
600 13th Street NW
Suite 1200
Washington, DC 20005-3096

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OFFICE OF PETITIONS

In re Application of Hashimoto et al. :
Application No.10/234,910 : Decision on Petition
Filing Date: September 4, 2002 :
Attorney Docket No. 043890-0582 :

This is a decision on the petition under 37 CFR 1.181, filed January 8, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

Facts:

A Notice of Allowance and a Notice of Allowability were mailed June 23, 2006.

The Office did not receive a reply.

A supplemental Notice of Allowability was mailed October 16, 2006.

The instant petition was filed January 8, 2007.

Since the Office did not receive the issue fee in response to the Notice of Allowance mailed June 23, 2006, a Notice of Abandonment was mailed March 20, 2007.

Discussion:

Petitioner has proven non-receipt of the Notice of Allowance and Notice of Allowability mailed June 23, 2006.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 2112 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will mail a new Notice of Allowance and a new Notice of Allowability. The time period for responding to the new notices will be set to run from the mailing date of the new notices.

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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FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK, NY 10038

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OFFICE OF PETITIONS

In re Application of :
David H. McFarland et al :
Application No. 10/234,964 : DECISION ON PETITION
Filed: September 5, 2002 :
Attorney Docket No. 40128/07101 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 29, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 3, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed April 3, 2006. Accordingly, the date of abandonment of this application is July 4, 2006. A Notice of Abandonment was mailed on October 19, 2006.

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 $700 and the publication fee of $300, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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Borgwarner Inc.
Patent Department
3800 Automation Avenue
Auburn Hills, MI 48326-1782

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FEB 09 2005

OFFICE OF PETITIONS

In re Application of	:	
Yih-Fang Chen, et al.	:	
Application No. 10/234,976	:	ON PETITION
Filed: September 4, 2002	:	
Attorney Docket No. 02072/BW02085	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 10, 2004, to revive the above-identified application.

The petition is **GRANTED**.

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 Charles Schaub 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. Schaub 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.

Further, it is not apparent whether the person signing the statement of unintentional delay, namely Mr. Schaub, 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 submitting a reply to the outstanding office action under 37 CFR 1.137(b) was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to the Publishing Division to be processed into a patent.

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

cc: Charles R. Schaub
P. O. Box 916
Toledo, OH 43697-0916

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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MAY 0 8 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Jon H. Come et al :
Application No. 10/234,985 :
Filed: September 3, 2002 :
Attorney Docket No. DFMP-P02-018 :

This is a decision on the petition, filed April 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 December 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 1636 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new 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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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVENUE
SUITE 2400
AUSTIN, TX 78701

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OFFICE OF PETITIONS

In re Patent No. 6,853,865	:	
Beens et al.	:	DECISION ON REQUEST
Issue Date: February 8, 2005	:	FOR RECONSIDERATION OF
Application No. 10/234,989	:	PATENT TERM ADJUSTMENT
Filed: September 4, 2002	:	and
Atty Docket No. TWAV:002US	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION
	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§1.705(b)[1]" filed March 22, 2005. Patentees request that the Patent Term Adjustment for the above-identified patent be set at 102 days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one hundred two (102) days.

On February 8, 2005, the above-identified application matured into U.S. Patent No. 6,853,865. The instant request for reconsideration filed March 22, 2005 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 0 days. Patentees dispute a reduction of record for 116 days associated with the filing of a "miscellaneous incoming letter" received in the Office on October 12, 2004. Patentees state that the paper filed after the notice of allowance was an "Interview Summary

[1] The proper section of 37 CFR 1.705 is paragraph (d).

per the Examiner's request[,]" and thus, no reduction is warranted.

A review of the application record confirms that the reduction of one hundred sixteen (116) days was based on the filing of the Interview Summary. Such a paper is not identified as one of the papers the filing of which the Director has specifically deemed not be a "failure to engage in reasonable efforts" within the meaning of 37 CFR 1.704(c)(10). Nonetheless, under the circumstances of this case, it is concluded that the filing of applicants' Interview Summary is not a failure to engage within the meaning of 37 CFR 1.704(c)(10). Thus, it is concluded that the reduction of one hundred sixteen (116) days is not warranted.

In view thereof, the patent term adjustment indicated on the patent should be one hundred two (102) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **ONE HUNDRED TWO (102)** days.

Telephone inquiries specific to this matter should be directed to Denise Pothier at (571) 272-4787.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

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MERCHANT & GOULD SOUTHWIRE
P.O. BOX 2903
MINNEAPOLIS, MN 55402

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MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of
John Nicholos Ware, et al.
Application No. 10/235,024
Filed: September 4, 2002
Attorney Docket No. 60309.0012US11/SW-510CIP

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 October 17, 2007, to accept an unintentionally delayed deletion of a previously filed claim for benefit under 35 U.S.C. § 120, and issue a Certificate of Correction.

The petition is **DISMISSED**.

The filing of a petition under 37 CFR 1.78(a)(3) is inappropriate to delete a benefit claim as noted in MPEP § 201.11(G), under the subheading Deleting Benefit Claims. Further, 35 U.S.C. 255 states:

> Whenever a mistake of a clerical or typographical nature, or of minor character, which was not the fault of the Patent and Trademark Office, appears in a patent and a showing has been made that such mistake occurred in good faith, the Director may, upon payment of the required fee, issue a certificate of correction, if the correction does not involve such changes in the patent as would constitute new matter or would require reexamination. Such patent, together with the certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form. (Amended Jan. 2, 1975, Public Law 93-596, sec. 1, 88 Stat. 1949; Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-582 (S. 1948 sec. 4732(a)(10)(A)).)

In this case, the correction requested involves changes in the patent that would constitute new matter or would require reexamination. Accordingly, the petition is dismissed as inappropriate.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

JUL 14 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

ACCENTURE C/O MORRISON & FOERSTER
755 PAGE MILL ROAD
PALO ALTO CA 94304

In re Application of:
Chuah et al.
Application No. 109/235,031
Filed: September 3, 2002
For: COLLABORATIVE INTERACTIVE SERVICES SYNCHRONIZED WITH REAL EVENTS

DECISION ON PETITION

This is a decision on the petition filed November 15, 2002 under 35 USC § 122(b)(2)(B)(i) and 37 CFR § 1.211 to withdraw application from publication. No fee is required.

Concurrently with the filing of the application on September 3, 2002, Applicant filed a Request and Certification under 35 USC § 122(b)(2)(B)(i) requesting that the application not be published as evidenced by the Request and Certification located in the file and the Certificate of Express Mailing itemizing, inter alia, the Request and Certification. However, Applicant was incorrectly informed via an Updated Filing Receipt mailed November 6, 2002 that there was no nonpublication request and was given a projected publication date of March 4, 2004. On April 4, 2003, Applicant re-transmitted by facsimile a Request for a Corrected Filing Receipt that originally had a Certificate of Facsimile Transmission of November 15, 2002, which requests a filing receipt indicating nonpublication. The nonpublication request was subsequently acknowledged and mailed to Applicant April 14, 2003.

Since the nonpublication request is now acknowledged, the petition is **DISMISSED AS MOOT**.

The application file will be forwarded to Central Files to await examination in due course.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 01 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MORRISON & FOERSTER LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94303-1018

In re Application of
Mei Chuah et al

Application No. 10/235,031
Filed: September 3, 2002
For: COLLABORATIVE INTERACTIVE SERVICES SYNCHRONIZED WITH REAL EVENTS

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on July 15, 2004.

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

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

All attorneys/agents listed in the request are withdrawn.

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.

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

CC: Joel Benson
Brinks Hofer Gilson & Lione
455 N. Cityfront Plaza Drive
Chicago, IL 60611-5599

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

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OFFICE OF PETITIONS

In re Application of	:	
Jonathan J. Hull et al	:	
Application No. 10/235,035	:	ON PETITION
Filed: September 3, 2002	:	
Attorney Docket No. 015358-007700US	:	

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

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

The examiner of Technology Center AU 2876 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
Jonathan J. Hull et al :
Application No. 10/235,042 :
Filed: September 3, 2002 :
Attorney Docket No. 015358-007800US

ON PETITION

This is a decision on the petition, filed October 29, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 29, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2178 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Alexandria, VA 22313-1450
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H. THOMAS ANDERTON, JR.
GENENCOR INTERNATIONAL, INC.
925 PAGE MILL ROAD
PALO ALTO CA 94034-1013

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OFFICE OF PETITIONS

In re Application of	:	
Aehle Wolfgang et al	:	
Application No. 10/235,043	:	DECISION GRANTING PETITION
Filed: September 3, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. GC690-2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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 June 17, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1652.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAR 25 2008

MOTOROLA INC
600 NORTH US HIGHWAY 45
W4 - 39Q
LIBERTYVILLE IL 60048-5343

In re Application of	:	
Carroll, et al.	:	
Application No. 10/235,047	:	DECISION
Filed: 4 September, 2002	:	
Attorney Docket No. EN11399	:	

This is a decision on the petition filed on 15 February, 2008, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES: 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."

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 26 July, 2006, with reply due absent an extension of time on or before 26 October, 2006;
- the application went abandoned by operation of law after midnight 26 October, 2006;
- the Office mailed the Notice of Abandonment on 5 May, 2007;

- on 15 February, 2008, Petitioner filed the instant petition with, *inter alia*, an averment of that he received a call from the Examiner on 9 August, 2006, to the effect that the 26 July, 2006, Office action was intended for another file and had been improvidently mailed, and that no reply was necessary—thus, Petitioner failed to:

  —respond to the Office action, of 26 July, 2006;

  —memorialize on the record the conversation and ignored the provision of 37 C.F.R. §1.2 that all actions before the Office are in writing; and

  —reply to the 3 May, 2007, Notice of Abandonment pursuant to the timeliness requirements of 37 C.F.R. §1.181;

  nonetheless, Petitioner now wishes the Office to withdraw the holding of Abandonment nearly sixteen (16) months following its occurrence by operation of law and more than nine (9) months after the mailing of the Notice thereof.—such events and passage of time are not consistent with the requirements set forth in the guidance of the Commentary at MPEP §711.03(c)(I)(A) and (B) (as to non-receipt and timely filing, respectively).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[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] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears not to have satisfied showing requirement herein as discussed in the BACKGROUND, above, to wit: Petitioner's averment of that he received a call from the Examiner on 9 August, 2006, to the effect that the 26 July, 2006, Office action was intended for another file and had been improvidently mailed, and that no reply was necessary—thus, Petitioner failed to: respond to the Office action, of 26 July, 2006; memorialize on the record the conversation and ignored the provision of 37 C.F.R. §1.2 that all transactions before the Office are in writing; and reply to the 3 May, 2007, Notice of Abandonment pursuant to the timeliness

---

[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).

requirements of 37 C.F.R. §1.181 Petitioner's wish that \the Office to withdraw the holding of Abandonment nearly sixteen (16) months following its occurrence by operation of law and more than nine (9) months after the mailing of the Notice thereof in light of such events and passage of time are not consistent with the requirements set forth in the guidance of the Commentary at MPEP §711.03(c)(I)(B) as to timely filing.

CONCLUSION

Petitioner appears not to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (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 petition fee, a terminal disclaimer and fee where appropriate 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:

By mail: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[8]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[8] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOUR MAIN STREET, SUITE 100
LOS ALTOS, CA 94022

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AUG 26 2009

OFFICE OF PETITIONS

In re Application of

Douglas Ray Hayman et al
Application No. 10/235,064
Filed: September 4, 2002
Attorney Docket No. 355492-2850

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed July 14, 2009.

The request is **APPROVED**.

A review of the file record indicates that Antoinette F. Konski: (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, Antoinette F. Konski has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

There is an outstanding Office action mailed June 12, 2009 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Antoinette F. Konski
975 Page Mill Road
Palo Alto, CA 94304-1013

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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OFFICE OF PETITIONS

SWISS TANNER, P.C.
P.O. BOX 1749
FOUR MAIN STREET,
SUITE 100
LOS ALTOS CA 94022

In re Application of	:	
Douglas Ray HAYMAN, et al	:	
Application No. 10/235,064	:	ON PETITION
Filed: September 4, 2002	:	
Attorney Docket No. 355-2850	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 5, 2010, 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 12, 2009. 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). An extension of time for one (1) month pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is October 13, 2009.

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) the required statement of unintentional delay have been received.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

This application is being referred to Technology Center AU 3763 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.

/DCG/
Diane C. Goodwyn
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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Date Mailed : 4-11-06

Patent No.: 6,754,483
Patent Issued : June 22, 2004
Inventor(s) : Norman Beamish, et. al.
Docket No.: ROKWELL.047C1

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.322.

The alleged error on the title page, item [56] References Cited under Other Publications, is in fact a change made by the examiner and considered to be in accordance with the permissible amendments enumerated in MPEP. 1302.04

In view of the foregoing, your request is hereby denied. However, further consideration will be given upon receipt of a request for reconsideration directed to Decisions & Certificates of Correction Branch.

Eva James
For Cecelia B. Newman
Certificate of Correction Branch
(703) 308-9390 ext. 124 or ext. 102

Karen J. Liner
Knobbe, Martens, Olson & Bear, LLP
2040 Main Street14th Floor
Irvine, CA 92614

ej

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Paper No. 4

TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON MA 02110

MAIL

OCT 2 5 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of)
Jeffrey MAMMEN)
Application No. 10/235,089)
Filed: September 5, 2002)
For: METHOD AND SYSTEM FOR)
OPTIMIZING THE SIZE OF A VARIABLE
BUFFER

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 September 7, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

CC: Steve Watts
2021 Terri Creek Drive
Fuquay Varina, NC 27526

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GERON CORPORATION
230 CONSTITUTION DRIVE
MENLO PARK CA 94025

COPY MAILED

OCT 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Mandalam, et al.	:	
Application No. 10/235,094	:	DECISION ON PETITION
Filed: September 4, 2002	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 091/030	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed June 8, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in amendment filed on December 22, 2005.

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.

37 CFR § 1.78(a)(6) requires 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. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(6). If this is not a correct reading of the statement appearing in the petition, petitioners should promptly notify the Office.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. 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 1632 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, as found in the amendment of December 22, 2005, and the response to the April 20, 2007 non-final Office action, filed on October 8, 2007.

Shirene Willis Brantley

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
Address: COMMISSIONER FOR PATENTS
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/235,094	09/04/2002	1632	615	091/030P	20	4

CONFIRMATION NO. 7032

CORRECTED FILING RECEIPT

OC000000026281256

22869
GERON CORPORATION
230 CONSTITUTION DRIVE
MENLO PARK, CA 94025

Date Mailed: 10/15/2007

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)

Ramkumar Mandalam, Union City, CA;
Chunhui Xu, Cupertino, CA;
Joseph D. Gold, San Francisco, CA;
Melissa K. Carpenter, Castro Valley, CA;

Power of Attorney: The patent practitioners associated with Customer Number **022869**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/317,478 09/05/2001

Foreign Applications

UNITED STATES OF AMERICA PCT/US01/01030 01/10/2001

If Required, Foreign Filing License Granted: 09/27/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/235,094

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Culture system for rapid expansion of human embryonic stem cells

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 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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SEP 15 2003

Mailed:

spg
Paper Number 6

In re application of
Dabby Franklin
Serial No. 10/235,099
Filed: September 5, 2002
For: METHOD AND APPARATUS FOR FABRICATING SILICA BASED GLASS

DECISION ON PETITION

This is a response to the PETITION UNDER 37 C.F.R. §1.8(b), filed July 28, 2003. The petition requests that the abandonment, as set forth in the Notice of Abandonment of July 16, 2003, for failure to timely file a proper reply to the Office letter mailed December 5, 2002, be withdrawn since the applicants did timely file a reply on January 6, 2003. (A copy of the reply originally filed on January 6, 2003 is attached to the instant petition.)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that the applicant's reply was properly filed on January 6, 2003 as evidenced by the properly completed Certificate of Mailing under 37 CFR 1.8(a) attached to each of the papers submitted with the reply. See MPEP 512. It is further noted that the petitioner (see the STATEMENT REGARDING TIMELY FILED RESPONSE TO RESTRICTION REQUIREMENT attached to the instant petition) has attested on a personal knowledge basis to the previous timely mailing of the reply as is required by 37 C.F.R. 1.8(b)(3). Therefore, the application was never in-fact abandoned. Accordingly, any holding of abandonment for failure to timely file a proper reply to the Office letter mailed December 5, 2002 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the examiner for entry, processing and consideration of the reply originally filed January 6, 2003.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Hogan & Hartson L.L.P.
Biltmore Tower, Suite 1900
500 South Grand Avenue
Los Angeles CA 90071

UNITED STATES PA
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Alexandria, VA 22313-1450
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Date Mailed : May 17, 2007
Patent No. :6,893,893 B2
Ser. No. :10/235100
Inventor(s) :Padmapani C. Nallan, et al.
Issued :May 17, 2005
Title: METHOD OF PREVENTING SHORT CIRCUITS IN MAGNETIC FILM STACKS

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: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Magdalene Talley
For Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 116 or 125

Moser Ip Law Group
1040 Broad Street, 2nd Floor
Shrewsbury, NJ 07702

CBN/mt

DATE 2/21/08

APPLICATION NUMBER 10/235,100

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DOC DATE ~~FEB 2 2 2008~~

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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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Commissioner for Patents
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P.O. Box 1450
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MOSER IP LAW GROUP / APPLIED MATERIALS, INC.
1030 BROAD STREET
2ND FLOOR
SHREWSBURY NJ 07702

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FEB 2 2 2008

OFFICE OF PETITIONS

In re Patent No. 6,893,893	:	
Issued: May 17, 2005	:	
Application No. 10/235,100	:	ON PETITION
Filed: September 4, 2002	:	
Attorney Docket Number: 4006-210	:	

This is a decision on the petition filed June 28, 2007, to correct the assignee's name on the front of the Patent. The petition is being treated under 37 CFR 3.81(b)[1].

The petition is **GRANTED**.

Petitioner states that the failure to include the correct name of the assignee on the Fee(s) Transmittal form PTOL-85(b) filed January 28, 2005 was inadvertent. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct name of the assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

A request for a certificate of correction was filed September 13, 2005 and was dismissed in a decision mailed May 18, 2007 since the request was not accompanied by a petition under 37 CFR 3.81.

---

[1] *See* Official Gazette of June 22, 2004

Office assignment records however, reflect that APPLIED MATERIALS, INC. is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

The petition fee in the amount of $130.00 and the fee for the certificate of correction in the amount of $100.00 have been applied.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

RICHARD S. MYERS, JR.
STITES & HARBISON PLLC
SUITE 1800
424 CHURCH STREET
NASHVILLE TN 37219-2376

COPY MAILED
MAY 2 6 2004
OFFICE OF PETITIONS

In re Application of	:
Jeffrey D. Gordon	:
Application No. 10/235,117	: DECISION GRANTING PETITION
Filed: 5 September, 2003	:
Attorney Docket No. 14506-44815	:

This is a decision on the petition, filed on 4 May, 2004, under 37 CFR 1.137(b). This petition is being treated pursuant to the provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 23 September, 2003. 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. Notice of Abandonment was mailed on 22 April, 2004.

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 present 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)(i) has been rescinded.

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.[1] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that 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.

A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, is enclosed. The projected publication date has not yet been determined. Petitioner may request the projected publication date after the application has been revived.

The petition fee of $665.00 has been received.

The change of correspondence address filed on 4 May, 2004, cannot be accepted because it was not signed by an attorney of record.[2] There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. 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.

---

[1] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

[2] See MPEP §§ 601.03 and 405.

This decision is being forwarded to Technology Center 3700 for further processing.

Any inquiries concerning this decision may be directed to the undersigned at 703.308.6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

cc: Morris, Manning & Martin, LLP
1600 Atlanta Financial Center
3343 Peachtree Road, N.E.
Atlanta GA 30326-1044

UNITED STATES PATENT AND TRADEMARK OFFICE

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STEPHANIN L. SEIDMAN
HELLER EHRMAN WHITE & MCAULIFFE LLP
4350 LA JOLLA VILLAGE DRIVE, 7TH FLOOR
SAN DIEGO, CA 92122-1246

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SEP 1 7 2003

OFFICE OF PETITIONS

In re Application of :
Gary De Jong et al :
Application No. 10/235,119 : NOTICE
Filed: September 3, 2002 :
Attorney Docket No. 24601-416D

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

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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Corporate Patent Counsel
U.S. Philips Corporation
580 White Plains Road
Tarrytown NY 10591

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MAR 27 2008

OFFICE OF PETITIONS

In re Application of	:	
Shteyn et al.	:	
Application No. 10/235122	:	
Filing or 371(c) Date: 09/05/2002	:	ON PETITION
Attorney Docket Number: US 02.0271	:	

This is a decision on the petition to revive the application under the unintentional provisions of 37 CFR 1.137(b), filed January 18, 2008.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed July 26, 2004. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on October 27, 2007.

Applicable Law, Rules and MPEP

A grantable petition pursuant to this paragraph must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

As to item (3), additional information is required. The MPEP provides:

> The Office does not generally question whether there has been an intentional or otherwise impermissible delay in filing an initial petition pursuant to 37 CFR 1.137(a) or (b), when such petition is filed: (A) within 3 months of the date the applicant is first notified that the application is abandoned; and (2) within 1 year of the date of abandonment of the application. Thus, an applicant seeking revival of an abandoned application is advised to file a petition pursuant to 37 CFR 1.137 within 3 months of the first notification that the application is abandoned to avoid the question of intentional delay being raised by the Office (or by third parties seeking to challenge any patent issuing from the application). Where a petition pursuant to 37 CFR 1.137(a) or (b) is not filed within 3 months of the date the applicant is first notified that the application is abandoned, the Office may consider there to be a question as to whether the delay was unavoidable or unintentional. In such instances,
> (A) the Office will require a showing as to how the delay between the date the applicant was first notified that the application was abandoned and the date a 37 CFR 1.137(a) petition was filed was "unavoidable"; or
> (B) the Office may require further information as to the cause of the delay between the date the applicant was first notified that the application was abandoned and the date a 37 CFR 1.137(b) petition was filed, and how such delay was "unintentional."
> To avoid delay in the consideration of the merits of a petition under 37 CFR 1.137(a) or (b) in instances in which such petition was not filed within 3 months of the date the applicant was first notified that the application was abandoned, applicants should include a showing as to how the delay between the date the applicant was first notified by the Office that the application was abandoned and the filing of a petition under 37 CFR 1.137 was (A) "unavoidable" in a petition under 37 CFR 1.137(a); or (B) "unintentional" in a petition under 37 CFR 1.137(b).
>
> Where a petition pursuant to 37 CFR 1.137(b) is not filed within 1 year of the date of abandonment of the application (note that abandonment takes place by operation of law, rather than by the mailing of a Notice of Abandonment), the Office may require:
> (A) further information as to when the applicant (or the applicant's representative) 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 (or applicant's representative).

To avoid delay in the consideration of the merits of a petition under 37 CFR 1.137(b) 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(a) or 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application.

Analysis

Here, Applicant has provided the statement of unintentional delay as it appears on the PTO/SB/64 only. Applicant has not provided either: (A) the date that the applicant first became aware of the abandonment of the Application, or (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.

Further to this, 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 petition was ever given a power of attorney to prosecute the application. The change of address, filed November 7, 2007, was executed by an attorney who is not of record in this case. A change of address should be filed in this case in accordance with MPEP 601.03, which provides in relevant part, "[a] change of correspondence address may not be signed by an attorney or agent not of record (see MPEP § 405).
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.

Conclusion

The petition is dismissed without prejudice. Applicant should file a request for reconsideration of petition and include the necessary instructions, statement(s) and showing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

CC: ERIC M. BRAM
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

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BRIARCLIFF MANOR NY 10510

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JUL 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Shteyn et al.	:	
Application No. 10/235122	:	
Filing or 371(c) Date: 09/05/2002	:	ON PETITION
Attorney Docket Number: US 02.0271	:	

This is a decision on the renewed petition to revive the application under the unintentional provisions of 37 CFR 1.137(b), filed May 13, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed July 26, 2004. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on October 27, 2007.

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply in the form of an Amendment, filed January 18, 2008; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 2653 for processing of the Amendment, filed January 18, 2008, in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/15/10

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10235130 Patent No.: 7228004

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: APPROVED IN PART. Correction to column 13, Line 4 is ACCEPTED. Other corrections are REJECTED because they broaden or change the meaning of the claims. Since, similar amendments are not made to other mirroring claims (ex. Claim 1). This provides *constructive evidence* that different meanings are intended, at least for claims 1 and 2.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Matthew C. Bella/ 2624

SPE Art Unit

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Paper No. 5

GERALD L SMITH
MUELLER AND SMITH LPA
7700 RIVERS EDGE DRIVE
COLUMBUS OH 43235

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MAR 19 2004
OFFICE OF PETITIONS

In re Application of
Eggers, et al.
Application No. 10/235,131
Filed: September 5, 2002
Attorney Docket No. NET 2-069

DECISION ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed December 1, 2003 (Certificate of Mailing dated November 25, 2003).

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of a PCT international application filed on August 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. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing accompanies this decision.

The application file is being forwarded to Group Art Unit 3736 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing (1 page)

#9

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NOV 12 2004

In re Patent No. 6,663,941 B2	:	
Issue Date: December 16, 2003	:	**DECISION GRANTING**
Appl No.: 10/235,140	:	**PETITION**
Filed: September 05, 2002	:	*37 CFR 1.324*
For: CORRECTION OF INVENTORSHIP	:	

This is a decision on the petition filed May 07, 2004 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.

Deborah Jones
Supervisory Patent Examiner
Art Unit 1773
Technology Center 1700

Leonard D. Bowersox
KILYK & BOWERSOX, P.L.L.C.
3603-E Chain Bridge Road
Fairfax, VA 22030

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

DATE: August 1, 2004
TO: Certificates of Correction Branch
FROM: Deborah Jones
SPE, Art Unit 1773
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,663,941 B2 as specified on the attached Certificate.

Deborah Jones, SPE
Art Unit 1773

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,663,941 B2
Patented: December 16, 2003

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:

James F. Brown, Clifton, Virginia, United States of America.

Deborah Jones
Supervisory Patent Examiner
Art Unit 1773

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WASHINGTON, D.C. 20231
www.uspto.gov
DIW 12-02

Paper No. 4

FENWICK & WEST LLP
TWO PALO ALTO SQUARE
PALO ALTO CA 94306

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DEC 17 2002
OFFICE OF PETITIONS

In re Application of Gupta et al. Application No. 10/235,165 Filed: 4 September, 2002 Atty's Docket No. 23085-06957	DECISION GRANTING PETITION

This is a decision on the petition filed on 3 December, 2002, requesting that the above-identified application, including Figure 1 described in the specification, be accorded a filing date of 4 September, 2002.

On 4 September, 2002, the application was filed.

On 24 October, 2002, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the application had been accorded a filing date of 4 September, 2002, but that, *inter alia*, Figure 1 described in the specification appeared to have been omitted.

In response, on 3 December, 2002, a copy of the drawings and the present petition were submitted. Petitioners assert that one (1) sheet of drawings containing Figure 1 was filed with the other application papers on 4 September, 2002, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt were supplied with the present petition. The postcard receipt shows an Office date stamp of 09/04/02 and identifies the application by application number. The postcard also identifies the application by attorney docket number, and invention title, and acknowledge receipt, *inter alia*, of 12 sheets of drawings. Petitioners request that the application, including the one (1) sheet of drawings containing Figure 1 be accorded a filing date of 4 September, 2002.

A review of the official file reveals that a print of the one sheet of drawings containing Figure 1 as originally filed is located therein. It appears, therefore, that the original drawing sheet containing Figure 1 was misplaced in the USPTO after the print was made.

Accordingly, the Notice to File Missing Parts of Nonprovisional Application mailed on 24 October, 2002, is hereby vacated to the extent that it stated that Figure 1 described in the specification appeared to have been omitted.

In view of the above, the petition is granted. The petition fee of $130.00 will be credited to counsel's deposit account, No. 19-2555 as authorized on the fee transmittal submitted with the original application papers.

The application will be processed using the application papers, filed on 4 September, 2002. The copies of the drawing sheets filed on 3 December, 2002, will not be used for processing or examination, but will be retained in the application file.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 4 September, 2002, using the application papers filed that date, and for an indication on the bib-data sheet that 12 sheets of drawings were present on filing.

Telephone inquires should be directed to the undersigned at 703 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Gateway Inc
Patent Attorney
PO Box 2000
N. Sioux City SD 57049

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OFFICE OF PETITIONS

In re Application of :
Liebenow :
Application No. 10/235,177 : ON PETITION
Filed: September 5, 2002 :
Attorney Docket No. P1783US00 :
For: MONITOR POWER MANAGEMENT

This is a decision on the petition under 37 CFR 1.137(b), filed February 8, 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)." Petitioner is advised that this is not a final agency decision.

This application became abandoned for failure to properly reply to the final Office action, mailed July 14, 2006, which set an extendable three month period for reply. An amendment after final, filed October 16, 2006 (certificate of mailing date October 12, 2006) failed to place the application in *prima facie* condition for allowance, as was explained in the Advisory action, mailed October 30, 2006. The application became abandoned on October 15, 2006. The filing of the present petition precedes the mailing of A Notice of Abandonment.

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).

As a threshold matter, the instant petition does not satisfy requirement (2) above.

The small entity fee for filing a petition to revive an unintentionally abandoned application under 37 CFR 1.137(b) is $750.00. A review of Office records indicates that petitioner has not paid this fee.

The payment of the petition fee is a prerequisite to the filing of a petition to revive under 37 CFR 1.137(b). This requirement cannot be waived. MPEP 711.03(c)(III)(B). Therefore, consideration of the merits of the petition before receipt of the petition fee is prohibited.

Petitioner should submit the petition fee promptly.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
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
Senior Petitions Attorney
Office of Petitions

CC: JEFFREY A. PROEHL
GATEWAY, INC.
610 GATEWAY DRIVE, MAIL DROP Y-04
NORTH SIOUX CITY SD 57049

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Gateway Inc
Patent Attorney
PO Box 2000
N. Sioux City SD 57049

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DEC 0 5 2007

OFFICE OF PETITIONS

In re Application of
Liebenow
Application No. 10/235,177
Filed: September 5, 2002
Attorney Docket No. P1783US00
For: MONITOR POWER MANAGEMENT

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 5, 2007, to revive the above-identified application.

This application became abandoned for failure to properly reply to the final Office action, mailed July 14, 2006, which set an extendable three month period for reply. An amendment after final, filed October 16, 2006 (certificate of mailing date October 12, 2006) failed to place the application in *prima facie* condition for allowance, as was explained in the advisory action, mailed October 30, 2006. The application became abandoned on October 15, 2006. The filing of the present petition precedes the mailing of A Notice of Abandonment.

Applicant has submitted a RCE and required fee and amendment in reply to the July 14, 2006 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the July 14, 2006 final Office action, and the $1,500.00 petition fee, which was charged to deposit account no. 50-0439.

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, as he is not listed as a registered practitioner at Customer Number 32709. Nevertheless, his 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.

The petition is **GRANTED**.

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.

After the mailing of this decision the application will be forwarded to Technology Center AU 2116 for consideration of the RCE and amendment filed on February 8, 2007.

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

CC: JEFFREY A. PROEHL
GATEWAY, INC.
610 GATEWAY DRIVE, MAIL DROP Y-04
NORTH SIOUX CITY SD 57049

#10
DW

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TC 3600

Paul J. Maginot
Maginot, Moore & Bowman
Bank One Center/Tower
111 Monument Circle, Suite 3000
Indianapolis, IN 46204-5115

In re Application of
Walter C. Egger
Application No. 10/235,204
Filed: September 5, 2002
For: CONVEYING APPARATUS FOR OPEN CONTAINERS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on June 17, 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 January 23, 2004 and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

KJD/vdb: 7/12/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK, CA 94026

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OCT 1 5 2004

OFFICE OF PETITIONS

In re Application of :
Mohindra, Rishi :
Application No. 10/235,222 : ON PETITION
Filed: September5, 2002 :
Attorney Docket No. 59305-8086.US01 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 20, 2004, to revive the above-identified application.

The petition is **GRANTED.**

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 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. A Notice of Abandonment was mailed on June 4, 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 regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 6

THOMAS B HAVERSTOCK
HAVERSTOCK & OWENS LLP
162 NORTH WOLFE ROAD
SUNNYVALE CA 94086

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JUN 3 0 2003
OFFICE OF PETITIONS

In re Application of
Yang, et al.
Application No. 10/235,225
Filed: September 4, 2002
Attorney Docket No. WGSP-00402

ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 10, 2003.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of a PCT international application filed on April 11, 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. A Notice Regarding Rescission of Nonpublication Request indicating a projected publication date of October 23, 2003 accompanies this decision on petition.

The application 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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Notice Regarding Rescission of Nonpublication Request (1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

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2200 WELLS FARGO CENTER
90 SOUTH 7TH ST
MINNEAPOLIS MN 55402-3901

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OFFICE OF PETITIONS

In re Application of	:	
Bagga, et al.	:	
Application No. 10/235,227	:	DECISION REFUSING STATUS
Filed: September 4, 2002	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 6683.48USU1	:	

This is in response to the petition under 37 CFR 1.47(a), filed April 2, 2003. The petition was recently forwarded to the Office of Petitions for consideration.

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 September 4, 2002, without an executed oath or declaration. Accordingly, on October 2, 2002, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration together with a surcharge for its late filing. This Notice set a two month period for reply. On April 2, 2003, applicants filed the instant petition, made timely by obtaining a four month extension of time.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Rule 47 applicant has not met requirement (1) above.

Here, applicant has not demonstrated diligent effort in finding the non-signing inventors. With respect to showing diligent effort, "an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made."[1] Here, Rule 47 applicant states that a diligent effort was made, including having searched various Internet databases. However, Rule 47 applicant has provided no documentary evidence, such as a copies of these internet searches, to support such a finding[2].

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 may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] MPEP 409.03(d).

[2] Such documentary evidence should be made part of the affidavit or declaration. See id.

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In re Application of	:	
Bagga, et al.	:	
Application No. 10/235,227	:	DECISION REFUSING STATUS
Filed: September 4, 2002	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 6683.48USU1	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed June 12, 2006.

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 September 4, 2002, without an executed oath or declaration. Accordingly, on October 2, 2002, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration together with a surcharge for its late filing. This Notice set a two month period for reply. On April 2, 2003, applicants filed a petition under 37 CFR 1.47(a), made timely by obtaining a four month extension of time.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached after diligent effort **or** refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Rule 47 applicant has not met requirement (1) above.

With the petition filed April 2, 2003, Rule 47 applicant stated that the application papers were mailed to the last known addresses of inventors Gray and Ventre, which in both instances were returned as undeliverable because Gray and Ventre were no longer at their respective addresses. Rule 47 applicant then asserted that a diligent effort was made to locate the two non-signing inventors, including internet searches. However, the petition was dismissed in a decision mailed on May 1, 2006. The decision pointed out the Rule 47 applicant failed to include documentary evidence, such as copies of an internet search, to support a finding that diligent effort had been made.

With the instant renewed petition, Rule 47 applicant states that he was unable to locate copies of the previously performed internet searches. Instead, Rule 47 applicant has once again mailed Declaration and Power of Attorney documents to the last know addresses of Gray and Ventre, this time different addresses than those stated in the April 2, 2003 petition.

However, there has been no showing that the non-signing inventors were presented with the application papers (specification, claims, drawings, oath or declaration). Rather, the petition only establishes that they were forwarded a copy of the declaration and power of attorney documents. The documents were not returned as undeliverable; accordingly, it is concluded that Gray and Ventre are at their last known address. Regarding this, the Manual of Patent Examining Procedure states:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers.
>
> It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 U.S.P.Q. 80 Comm'r Pat. 1956).

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 may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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SEP 25 2006

OFFICE OF PETITIONS

In re Application of Bagga, et al. Application No. 10/235,227 Filed: September 4, 2002 Attorney Docket No. 6683.48USU1	: : : : :	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed August 3, 2006.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on September 4, 2002, without an executed oath or declaration. Accordingly, on October 2, 2002, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration together with a surcharge for its late filing. This Notice set a two month period for reply. On April 2, 2003, applicants filed a petition under 37 CFR 1.47(a), made timely by obtaining a four month extension of time.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached after diligent effort **or** refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or

declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Rule 47 applicant has not met requirement (1) above.

With the petition filed April 2, 2003, Rule 47 applicant stated that the application papers were mailed to the last known addresses of inventors Gray and Ventre, which in both instances were returned as undeliverable because Gray and Ventre were no longer at their respective addresses. Rule 47 applicant then asserted that a diligent effort was made to locate the two non-signing inventors, including internet searches. However, the petition was dismissed in a decision mailed on May 1, 2006. The decision pointed out the Rule 47 applicant failed to include documentary evidence, such as copies of an internet search, to support a finding that diligent effort had been made.

By renewed petition filed June 12, 2006, Rule 47 applicant stated that he was unable to locate copies of the previously performed internet searches. Instead, Rule 47 applicant stated that he mailed declaration and power of attorney documents to the last know addresses of Gray and Ventre, this time different addresses than those stated in the April 2, 2003 petition. The renewed petition was dismissed in a decision mailed on July 13, 2006, because there was no showing that Rule 47 applicant presented the inventors with the entire application papers, rather just the declaration and power of attorney documents.

With the instant renewed petition, attorney Haupt has stated that the entire application papers were in fact mailed to the non signing inventors. The other requirements for a grantable petition under Rule 47 were previously satisfied with the earlier filed petitions.

Accordingly, the above-identified application is hereby <u>accorded Rule 1.47(a) status</u>.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the last known addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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CARLO VENTRE
37 ST GALLERSTR
TURBENTHAL CH 8488

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SEP 25 2006

OFFICE OF PETITIONS

In re Application of :
Charanpreet Bagga, Eric Gray, Carlo :
Ventre :
Application No. 10/235,227 :
Filed: September 4, 2002 : LETTER
Title: Spinal Fixation Device and
Method

Dear Mr. Ventre:

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 (571)272-3207. 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

Keith R. Haupt
Wood, Herron & Evans LLP
2700 Carew Tower
Cincinnati OH 45202
phone: 513-241-2324

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ERIC GRAY
604 BRONSON PL NE
RENTON WA 98056

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SEP 25 2006

OFFICE OF PETITIONS

In re Application of :
Charanpreet Bagga, Eric Gray, Carlo :
Ventre :
Application No. 10/235,227 :
Filed: September 4, 2002 : LETTER
Title: Spinal Fixation Device and
Method

Dear Mr. Gray:

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 (571)272-3207. 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

Keith R. Haupt
Wood, Herron & Evans LLP
2700 Carew Tower
Cincinnati OH 45202
phone: 513-241-2324

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 1, 2007

TO SPE OF : ART UNIT 1753

SUBJECT : Request for Certificate of Correction for Appl. No.: 10235230 Patent No.: 7166796B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

Nam X. Nguyen
SPE

1753
Art Unit

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OCT 20 2006

OFFICE OF PETITIONS

THOMPSON HINE LLP
P.O BOX 8801
DAYTON OH 45401-8801

In re Application of	:	
Thieme	:	
Application No. 10/235,247	:	DECISION ON PETITION
Filed: September 4,2002	:	TO WITHDRAW
Attorney Docket No. 058692.00002	:	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 22, 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 Mark P. Levy on behalf of all attorneys of record.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: LAURA M. THIEME
500 W. WILSON BRIDGE
SUITE 314
WORTHINGTON, OH 43085

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 8 COPY MAILED

APR 28 2003

OFFICE OF PETITIONS

John A Shedden
272 Harbor Ridge Drive
Statesville, NC 28677

In re Application of
Robert Moore, Stanley Kostka, Santakumari Mane and Christopher Miller
Application No.10/235,252
Filed: September 5, 2002
Attorney Docket Number: RD97002CIP
Title of Invention: FULLY COMPATIBLE SURFACTANT-IMPREGNATED WATER-SOLUBLE FERTILIZER AND USE

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed March 20, 2003.

The petition is GRANTED.

Petitioner has shown that non-signing inventors have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of John Shedden attest a copy of the application papers were sent to non-signing inventors' last known address via certified mail. Petitioner has also provided evidence that non-signing inventors received the application papers. The non-signing inventors' failure to respond to the application sufficiently establishes that they refuse to execute the application papers.

Deposit account 50-2356 has been charged the $130.00 petition fee.

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago IL 60610

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OFFICE OF PETITIONS

In re Application of
Yoshihiro Kanada et al.
Application No. 10/235,262
Filed: September 5, 2002
Attorney Docket No. 9281-4389
Title: SOFT MAGNETIC FILM AND THIN FILM MAGNETIC HEAD USING SOFT MAGNETIC FILM, PROCESS FOR MANUFACTURING SOFT MAGNETIC FILM AND PROCESS FOR MANUFACTURING THIN FILM MAGNETIC HEAD

DECISION ON PETITION
UNDER 37 C.F.R. §1.181

This is a decision on the petition filed on August 4, 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 February 23, 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 May 24, 2006. A Notice of Abandonment was mailed on July 19, 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 he has asserted that the Office communication was not received, that he has searched both the file jacket and the docket record, and he has included a copy of both of these items.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the mailing was not received.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the Notice of Allowance and Issue Fee Due, and will set a new period for response.

Petitioner has further submitted $130 for the filing of this petition. Petitions under this section of the C.F.R. do not carry a filing fee. As such, the fee will be credited to Petitioner's Deposit Account, as authorized in the petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225[3]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

---

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).

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 4/1/05 Paper No.: _____

TO : Supervisor, Art Unit 2825

SUBJECT : Certificate of Correction Request in Patent No.: 10/235,270 6,846,735

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.

C Green

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:** Changes and Formal Drawings approved.

MATTHEW SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Matthew S Smith — **Supervisor**

2825 — **Art Unit**

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George L. Snyder, Jr.
Hodgson Russ LLP
Suite 2000
One M&T Plaza
Buffalo, NY 14203-2391

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OFFICE OF PETITIONS

In re Patent No. 6,821,072	:	
Issue Date: November 23, 2004	:	
Application No. 10/235,288	:	ON PETITION
Filed: September 5, 2002	:	
Attorney Docket No. 37105.0044	:	

This is a decision on the petition filed March 24, 2005, which is being treated as a petition under 37 CFR 3.81[1] to add an additional name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

The patented file is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226. Questions concerning the Certificate of Correction may be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *See Official Gazette of June 22, 2004*

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

JUN 25 2003

UR
PAPER NO. 9

In re Application of	:	
Seshadri S. Ramkumar	:	DECISION ON
Serial No. 10/235,303	:	PETITION UNDER
Filed: September 05, 2002	:	M.P.E.P. 708.02(XI)
For: CHEMICAL PROTECTIVE COMPOSITE	:	
SUBSTRATE AND METHOD OF	:	
PRODUCING SAME	:	

This is in response to the petition filed May 19, 2003, 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.**

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Thompson & Knight L.L.P.
Patent Prosecution Department
98 San Jacinto Blvd., Suite 1200
Austin, TX 78701

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FOLEY HOAG LLP
PATENT GROUP
WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02210-2600

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In re Application of	:	
Cane, et al.	:	
Application No. 10/235,304	:	ON PETITION
Filed: September 5, 2002	:	
Attorney Docket No. NTK-010.01	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed April 21, 2006.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed May 5, 2005. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above identified application became abandoned on August 6, 2005. A Notice of Abandonment was mailed on January 5, 2006.

With the instant petition, applicant paid the petition fee, submitted the required reply in the form of an amendment, and made the proper statement of unintentional delay.

The petition fee of $750 has been charged to Deposit Account No. 06-1448, as authorized.

The application file is being forwarded to Group Art Unit 2162 for consideration of the amendment filed April 21, 2006.

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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Hoffman Warnick, LLC
75 State Street
14th Floor
Albany, NY 12207

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OFFICE OF PETITIONS

In re Application of
Colin L. Bird et al.
Application No. 10/235,313
Filed: September 5, 2002
Attorney Docket No. GB920020003US1

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 28, 2008, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 23, 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 August 24, 2007. A Notice of Abandonment was mailed on December 12, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of $1540.00, and (3) a proper statement of unintentional delay.

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 appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

The petition 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 $1540.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2143 for appropriate action by the Examiner in the normal course of business on the reply received January 28, 2008.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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RAYTHEON COMPANY
INTELLECTUAL PROPERTY & LICENSING
2000 EAST EL SEGUNDO BOULEVARD, EO/E01/E150
P.O. BOX 902
EL SEGUNDO, CA 90245

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JUL 2 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Scholz et al.	:	
Application No. 10/235,322	:	ON PETITION
Filed: September 5, 2002	:	
Attorney Docket No. 01W178	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 26, 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 February 2, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 4, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is now being forwarded to the Publishing Division for processing into a patent.

Telephone inquiries should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after approximately **September 24, 2004** should be directed to the undersigned at (571) 272-3282.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Lorri W. Cooper, Esq.
JONES, DAY, REAVIS & POGUE
North Point
901 Lakeside Avenue
Cleveland OH 44114

MAILED

JAN 13 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of:
John Soehnlen et al.
Application No. 10/235,346
Filed: September 5, 2002
For: WIRELESS ENVIRONMENTAL SENSING IN PACKAGING APPLICATIONS

: **DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY**

This is a decision on the request filed on July 22, 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 as MOOT**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved as moot because the attorney making the request does not now have, and apparently never has had, power of attorney in this application.

There is no record of power of attorney ever being given to the attorney making the request. The original declaration does not include a power of attorney for the requesting attorney, and no separate paper conferring power of attorney to the attorney making the request was filed.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121

RAR/cps: 1/7/04

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 3

MAIL

JAN 13 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY CA 94704-0778

In re Application of:
Sangeeta Ramakrishnan
Application No.: 10/235,371
Filed: September 3, 2002
For: **COMBINED JITTER AND MULTIPLEXING SYSTEMS AND METHODS**

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed November 5, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. 402.06. 37 C.F.R. 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The signer of the petition, William J. Plut, is not appointed as an attorney or agent of record. For the above stated reasons, the request is **DISMISSED AS MOOT**.

All future communications from the Office will continue to be directed to the above-listed address unless the Office receives proper notification of a change in Power of Attorney and/or correspondence address.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications & Information Processing
(703) 305-4701

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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DIW May-06

TERRY B. MORRIS
MORRIS & ASSOCIATES
P.O. BOX 1993
PRAIRIEVILLE LA 70769

COPY MAILED

MAY 2 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Harold Schlosser	:	
Application No. 10/235,378	:	ON PETITION
Filed: 5 September, 2002	:	
Atty Docket No. RET-100	:	

This is a decision on the paper filed on 15 March, 2006, which is treated as a petition to withdraw of the holding of abandonment under 37 CFR 1.181.

The petition is **DISMISSED**.

The application became 7 July, 2005, held abandoned for failure to file a proper response to the Notice of Non-Compliant Amendment mailed on 6 June, 2005. Notice of Abandonment was mailed on 6 January, 2006.

Petitioner asserts that the Notice of Non-Compliant Amendment should be reissued in accordance *Official Gazette* Notice of 11 October, 2005, entitled "Office Actions and Notice of Allowances Previously Mailed to Areas of Alabama, Louisiana, and Mississippi Affected by Hurricane Katrina." Alternatively, petitioner requests that the enclosed response to the Notice be accepted as timely filed.

The petition is dismissed because applicant's correspondence address at the time of P.O. Box 808, Pass Christian, MS 37571-0808, did not have one of the USPS zip codes identified in the Official Gazette Notice as being part of the affected area.

As such the application is properly held abandoned.

The petition is **DISMISSED.**

The petitioner may want to consider filing a petition to revive under 37 C.F.R. 1.137(b).

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision.

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.

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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DNW Sep-06

TERRY B. MORRIS
MORRIS & ASSOCIATES
P.O. BOX 1993
PRAIRIEVILLE LA 70769

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OFFICE OF PETITIONS

In re Application of :
Harold Schlosser :
Application No. 10/235,378 : ON PETITION
Filed: 5 September, 2002 :
Atty Docket No. RET-100 :

This is a decision on the "Request for Reconsideration of Dismissal of Petitioner's Petition to Withdraw Holding of Abandonment" filed on 11 July, 2006, which is treated as a renewed petition to withdraw of the holding of abandonment under 37 CFR 1.181.

The petition is **GRANTED**.

The application became 7 July, 2005, held abandoned for failure to file a proper response to the Notice of Non-Compliant Amendment mailed on 6 June, 2005. Notice of Abandonment was mailed on 6 January, 2006.

Petitioner asserts that the Notice of Non-Compliant Amendment should be reissued in accordance *Official Gazette* Notice of 11 October, 2005, entitled "Office Actions and Notice of Allowances Previously Mailed to Areas of Alabama, Louisiana, and Mississippi Affected by Hurricane Katrina." Alternatively, petitioner requests that the enclosed response to the Notice be accepted as timely filed. The petition filed on 15 March, 2006, was dismissed on 22 May, 2006.

Upon reconsideration, it is noted that applicant's correspondence address at the time of P.O. Box 808, Pass Christian, MS 39571-0808, is, in fact, one of the USPS zip codes identified in the Official Gazette Notice as being part of the affected area.[1]

As such, the holding of abandonment is withdrawn, and the Notice of Abandonment vacated.

---

[1] The original petition was dismissed because the Notice mailed on 6 June, 2005, incorrectly identified petitioner's ZIP code as one not within the affected area.

The reply filed with the petition on 15 March, 2006, will be accepted as timely filed.

The application will be referred to the Technology Center for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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RALEIGH NC 27627

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APR 2 2 2004

OFFICE OF PETITIONS

In re Application of
Richard Soltero et al
Application No. 10/235,381
Filed: September 5, 2002
Attorney Docket No. 9233-68

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 13, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed nonprovisional Application No. 10/075,097, and on the petition under 37 CFR 1.78(a)(6) for the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/269,198 set forth in the amendment filed with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant application was filed on September 5, 2002, and was pending at the time of filing of the instant petition.

The reference to the prior-filed application was not included in the manner specified in 37 CFR 1.78(a)(2)(i) (i.e., in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(2)(ii).

As to the benefit claim under 37 CFR 1.78(a)(6):

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

> (1) the surcharge set forth in 37 CFR 1.17(t);
>
> (2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and
>
> (3) the reference to the prior filed provisional application supplied in an application data sheet (ADS)37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. See 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5)(i). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The reference to the above-noted, prior-filed provisional application was not included in the manner specified in 37 CFR 1.78(a)(5)(i) (i.e., in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(5)(ii).

A reference to add the prior-filed applications on page one following the first sentence of the specification has been included in an amendment filed on February 13, 2004. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

Accordingly, before the petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) can be granted, a renewed petition and a substitute amendment deleting the incorporation by reference statement for nonprovisional Application No. 10/075,097and provisional Application No. 60/269,198 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:

2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (703) 305-8859.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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RALEIGH NC 27627

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OFFICE OF PETITIONS

In re Application of
Richard Soltero et al
Application No. 10/235,381
Filed: September 5, 2002
Attorney Docket No. 9233-68

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 13, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed nonprovisional Application No. 10/075,097, and on the petition under 37 CFR 1.78(a)(6) for the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/269,198 set forth in the amendment filed with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant application was filed on September 5, 2002, and was pending at the time of filing of the instant petition.

The reference to the prior-filed application was not included in the manner specified in 37 CFR 1.78(a)(2)(i) (i.e., in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(2)(ii).

As to the benefit claim under 37 CFR 1.78(a)(6):

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

> (1) the surcharge set forth in 37 CFR 1.17(t);
>
> (2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and
>
> (3) the reference to the prior filed provisional application supplied in an application data sheet (ADS)37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. See 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5)(i). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The reference to the above-noted, prior-filed provisional application was not included in the manner specified in 37 CFR 1.78(a)(5)(i) (i.e., in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(5)(ii).

A reference to add the prior-filed applications on page one following the first sentence of the specification has been included in an amendment filed on February 13, 2004. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

Accordingly, before the petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) can be granted, a renewed petition and a substitute amendment deleting the incorporation by reference statement for nonprovisional Application No. 10/075,097and provisional Application No. 60/269,198 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:

2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (703) 305-8859.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Washington, DC 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/235,399	09/04/2002	David H. Mack	018501-002511US

CONFIRMATION NO. 2708

FORMALITIES LETTER

OC000000008901220

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

OIPE JC58 OCT 3 0 2002 PATENT & TRADEMARK OFFICE

Date Mailed: 10/03/2002

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 $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$65** for a Small Entity

- **$65** Late oath or declaration Surcharge.

10/31/2002 WABDELR1 00000005 201430 10235399
01 FC:2051 65.00 CH

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

OIPE JC
OCT 3 0 2002
PATENT & TRADEMARK OFFICE

Please type a plus sign (+) inside this box → [+]

PTO/SB/21 (08-00)
Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	10/235,399
Filing Date	September 4, 2002
First Named Inventor	Mack, David H.
Group Art Unit	Not yet assigned
Examiner Name	Not yet assigned
Total Number of Pages in This Submission: 13	Attorney Docket Number: 018501-002511US

ENCLOSURES *(check all that apply)*

- [x] Fee Transmittal Form
  - [ ] Fee Attached
- [ ] Amendment / Reply
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Response to Missing Parts/ Incomplete Application
  - [x] Response to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Assignment Papers *(for an Application)*
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition
- [ ] Petition to Convert to a Provisional Application
- [x] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s)
- [ ] After Allowance Communication to Group
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to Group *(Appeal Notice, Brief, Reply Brief)*
- [ ] Proprietary Information
- [ ] Status Letter
- [x] Other Enclosure(s) *(please identify below)*:

Declaration (37 CFR 1.63) for Utility or Design Application Using an Application Data Sheet (37 CFR 1.76) (4pp); Power of Attorney or Authorization of Agent (1pg); Statement Under 37 CFR 3.73(b) w/copy of Assignment (3pp); Copy of Notice to File Missing Parts of Nonprovisional Application (1pg); Return Postcard

Remarks: The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm and Individual name	Townsend and Townsend and Crew LLP Kevin Bastian — Reg. No. 34,774
Signature	
Date	October 25, 2002

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231 on this date: October 25, 2002

Typed or printed name	Stephanie J. Whitehurst		
Signature		Date	October 25, 2002

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be send to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

SF 1398810 v1

OIPE JC58
OCT 3 0 2002
PATENT & TRADEMARK OFFICE

PTO/SB/17 (11-01)
Approved for use through 10/31/2002. OMB 0651-0032
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 65

Complete if Known	
Application Number	10/235,399
Filing Date	September 4, 2002
First Named Inventor	Mack, David H.
Examiner Name	Not yet assigned
Group Art Unit	Not yet assigned
Attorney Docket No.	018501-002511US

METHOD OF PAYMENT *(check all that apply)*

☐ Check ☐ Credit Card ☐ MoneyOrder ☐ Other ☐ None

☒ Deposit Account:

Deposit Account Number: 20-1430

Deposit Account Name: Townsend and Townsend and Crew LLP

The Commissioner is authorized to: *(check all that apply)*

☒ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) during the pendency of this application

☐ Charge fee(s) indicated below, **except for the filing fee** to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
101	740	201	370	Utility filing fee	
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	

SUBTOTAL (1) ($)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

			Extra Claims		Fees from below		Fee Paid
Total Claims		-** =		X		=	
Independent Claims		-** =		X		=	
Multiple Dependent				X		=	

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claim, if not paid
109	84	209	42	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) ($)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	65
127	50	227	25	Surcharge - late provisional filing fee or cover sheet.	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive – unavoidable	
141	1,280	241	640	Petition to revive – unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Petitions related to provisional applications	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	740	246	370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	
Other fee (specify) ----------					

*Reduced by Basic Filing Fee Paid **SUBTOTAL (3)** ($)65

SUBMITTED BY Complete *(if applicable)*

Name (Print/Type)	Kevin Bastian	*Registration No. (Attorney/Agent)*	34,774	*Telephone*	415-576-0200
Signature				*Date*	October 25, 2002

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

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PATENT DEPARTMENT
P.O. BOX 4000
PRINCETON NJ 08543-4000

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OFFICE OF PETITIONS

In re Application of :
Termin et al. :
Application No. 10/235,436 :
Filed: 09/05/2002 :
Attorney Docket No. PH-7393(BMS-0002.100) :

DECISION ON PETITION

This is a decision on the petition filed September 11, 2006, to withdraw the holding of abandonment for the above-identified application.

On July 7, 2005, the Office mailed a Notice to File Corrected Application Papers, which set a non-extendable reply period of thirty days from the mail date of the Notice within which to correct the informalities. In the absence of a timely filed response, the Office mail a Notice of Abandonment on August 15, 2006.

In the present petition, the practitioner requested that the Office withdraw the holding of abandonment, re-mail the Notice to File Corrected Papers, and restart the period for reply.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the Notice to File Corrected Application, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice to File Corrected Application Papers was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice to File Corrected Application Papers was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See MPEP 711.03(c)(I)(A). For example, if a three-month period for reply was set in the non-received Office communication, a copy of the docket report

showing all replies docketed for a date three months from the mail date of the non-received Office communication must be submitted as documentary proof of non-receipt of the Office communication. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail (*e.g.* if the practitioner has a history of not receiving Office communications).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner for applicants submitted copies of docket records where the Notice to File Corrected Application Papers 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 Notice to File Corrected Application Papers was not received. In addition, applicants submitted the Declaration of Laura A. Caponi, the Docket Supervisor, in which she stated that she had personally searched the docket system for all dates from September 5, 2002 to August 15, 2006, and found no record of the receipt of a Notice to File Corrected Application Papers for this application. Accordingly, applicants presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. No petition fee is required.

The Office of Patent Publications has been advised of this decision. The matter is being referred to the Office of Patent Publication's support staff for mailing of a new Notice to File Corrected Application. The thirty-day period for responding to the Notice to File Corrected Application Papers will be set to run from the mailing date of the new Notice.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE – 46TH FLOOR
PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of	:
Barrett M. Kreiner et al	: DECISION ON PETITION TO
Application No. 10/235,461	: WITHDRAW FROM RECORD
Filed: September 4, 2002	:
Attorney Docket No. BELL-0190/02218	:

This is a decision on the request to withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 9, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys associated with the firm of Woodcock Washburn has been revoked by the assignee of the patent application on December 16, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by assignee.

The file record discloses that a non-final Office action was mailed on March 7, 2006, and the reply thereto was received on June 12, 2006. The due date for the reply was June 7, 2006. It is noted that the certificate of mailing for the reply of June 7, 2006 fails to state the day of mailing. As the reply was not received within the three month period for reply, a one month extension of time is necessary to render the reply timely filed. Accordingly, as authorized, the required one month extension of time fee will be charged to petitioner's deposit account. The Technology Center will take appropriate action on the reply received June 12, 2006 in due course.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Withers & Keys for Bell South
P O Box 71355
Marietta, GA 30007-1355

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DALLAS, TX 75265

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OFFICE OF PETITIONS

In re Application of	:	
Vijay Sundararajan et al	:	
Application No. 10/235,462	:	DECISION ON PETITION
Filed: September 4, 2002	:	
Attorney Docket No. TI-33450	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 8, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment, mailed May 10, 2005, which set a period for reply of one (1) month. Therefore, a reply was due on or before June 10, 2005, or on or before November 10, 2005, with the appropriate extension of time fee. This petition to revive was prematurely filed in view of the availability of extensions of time pursuant to the provisions of 37 CFR 1.136(a). However, as no extensions of time were obtained within the period set in the Notice of May 10, 2005, this application became abandoned on June 11, 2005. It is further noted that a Notice of Abandonment was mailed on October 2, 2006, prior to the period within which extensions of time could have been obtained for reply to the May 10, 2005 Office action. As this application is now abandoned, a petition under 37 CFR 1.137(b) is now the appropriate remedy for now reviving this application.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the Office action of May 10, 2005 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 2617 for appropriate action in the normal course of business on the reply received November 8, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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JANIS K. FRASER, PH.D., J.D.
Fish & Richardson P.C.
225 Franklin Street
Boston MA 02110-2804

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NOV 03 2004

OFFICE OF PETITIONS

Applicant: Ekstrand
Appl. No.: 10/235,463
Filing Date: September 4, 2002
Title: NUCLEOTIDE SEQUENCES
Attorney Docket No.: 06275-165003
Pub. No.: US 2004/0043448 A1
Pub. Date: March 4, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on October 8, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the front page of the patent application publication includes an error as the foreign priority information Swedish application No. 9703914-3 was omitted.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The request for corrected publication received on October 8, 2004, was not timely filed under 37 CFR 1.221(b).

The error in the omitted foreign priority information on the front page of the published patent application is an Office error but it is not a material error, as required by 37 CFR 1.221(b). The omitted foreign priority claim is not a material mistake because it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the

[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).

scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The specification and claims were accurately published, thus one can read and understand the content of the application. The error also do not affect the use of the patent application publication as a prior art reference, because the foreign priority date is not useable as a reference date.

Applicant's request for a corrected patent application publication on October 8, 2004, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

On December 17, 2002 and February 6, 2003, Filing Receipts were mailed omitting the foreign benefit claim. To avoid this type of problem in the future, applicants' representative should make a request for a corrected filing receipt using the facsimile number (703-746-9195) on the Filing Receipt.

To correct the error in the application number listed for foreign priority, applicant would need to submit a new Oath/Declaration or an application data sheet (ADS) listing the correct application either with or without the last digit after the hyphen, which is used for computer control. See WIPO St. 10/C. While the information was not part of the required application number, Applicant may NOT change the information given on the oath by making a request for a corrected filing receipt.

It appears that applicant may need to make a late benefit claim to properly claim benefit to application 09/242,608, which was not pending when the instant application was filed. In order to make a late benefit claim to the earlier filed applications, applicant must submit a petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e) and 120 for the benefit of the earlier filed applications. The petition must include 1) the surcharge ($1370) set forth in 37 CFR 1.14(t) and 2) a statement that the entire delay between the date the claim was due under paragraph (a)(5) of this section and the date the claim was filed was unintentional. The petition must also include a proper reference (amendment) to the prior applications in order for the petition to be granted.[2]

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

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[2]See Claiming the Benefit of a Prior-Filed Application under 35 U.S.C. §§ 119(e), 120, 121, and 365(c), 1268 Off. Gaz. Pat. Office Notices 89 (March 18, 2003).

questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The application will be examined in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

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MINNEAPOLIS, MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:	
Jonas Ekstrand	:	
Application No. 10/235,463	:	DECISION ON PETITION
Filed: September 4, 2002	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. 06275-165003	:	

This is a decision on the petition, filed November 15, 2005, which is being treated as a petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign Swedish Application No. 9703914-3, filed October 27, 1997.[1]

The petition is **GRANTED**.

This 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. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

[1] A claim for priority was previously made to the other applications noted on the Application Data Sheet and, further, were noted on the first Filing Receipt. The only claim for priority not proper on filing or appearing on the first Filing Receipt was to foreign Application No. 9703914-3, which is the subject matter of the instant petition. It is further noted that the claim for priority to Application No. 09/242,608 stated in the first line of the specification that it claims priority to PCT/SE98/01947, when in fact it is the national stage entry of the PCT application.

This application was filed on September 4, 2002, which is after November 29, 2000. Intermediate Application No. PCT/SE98/01947 was filed within 12 months of October 27, 1997 (the filing date of the foreign application to which benefit is now being claimed). On November 15, 2005, an Application Data Sheet was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,370 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay. [2]

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed foreign application, accompanies this decision on petition.

This application is being referred to Technology Center AU 1649 for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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[2] The statement of unintentional delay in the petition pertains to the provisions of 37 CFR 1.78(a)(3). However, as the claim for priority in this application is to a foreign application, the correct rule is 37 CFR 1.55(c). 37 CFR § 1.55(c) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.55(a)(1) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.55(c). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Katsunori Ikeda et al	:	
Application No. 10/235,496	:	
Filed: September 6, 2002	:	
Attorney Docket No. 10089/17	:	

This is a decision on the petition, filed January 24, 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 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 1723 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

VOLENTINE FRANCOS, PLLC
Suite 150
12200 Sunrise Valley Drive
Reston, VA 20191

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OFFICE OF PETITIONS

In re Application of
Atushi Ohtomo
Application No. 10/235,506
Filed: November 25, 2002
Attorney Docket No. OKI.367

: DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.182, filed November 25, 2002, requesting that the above-identified application be accorded the later filing date of November 25, 2002, the date the correct specification was filed with the United States Patent and Trademark Office (Office.)

On September 6, 2002, applicants deposited the above-identified application. However, on October 9, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Items," stating that the application had been accorded a filing date of September 6, 2002, and advising applicants that Figure 4 appeared to have been omitted from the application.

In response, on November 25, 2002, applicants filed the present petition, a specification, and "Declaration and Power of Attorney". Applicant indicated that the specification originally filed on September 6, 2002 was entirely incorrect, and that the specification filed November 25, 2002, should replace it. Applicant requested that the above-identified application be accorded a filing date of the date the replacement specification was filed--November 25, 2002.

Accordingly, the petition is **granted**.

The application is being returned to the Office of Initial Patent Examination for further processing and to correct the filing date to November 25, 2002, using the specification filed November 25, 2002.

Telephone inquires regarding this matter should be directed to Kenya A. McLaughlin, Petitions Attorney at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions

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JONES DAY
51 LOUISIANA AVENUE, N.W.
WASHINGTON, DC 20001-2113

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JAN 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Anthony V. Lemmo et al	:	
Application No. 10/235,553	:	DECISION ON PETITIONS
Filed: September 6, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 10436-0040	:	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 August 2, 2004, 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 and Application Data Sheet.

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).

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.

In view of the nonacceptance of the power of attorney filed October 14, 2004, 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 until such time as an acceptable power of attorney is received.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

This application is being forwarded to Technology Center Art Unit 1743 for appropriate action on the amendment submitted August 2, 2004, 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 nonprovisional and PCT 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 applications.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
Frank C. Eisenschenk
2421 N.W. 41st Street, Suite A-1
Gainesville, FL 32606-6669

Attachment: Corrected Filing Receipt

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2421 N.W. 41ST STREET, SUITE A-1
GAINESVILLE, FL 32606-6669

COPY MAILED

JAN 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Douglas Levinson et al	:	
Application No. 10/235,554	:	DECISION ON PETITIONS
Filed: September 6, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 10436-0041	:	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 August 2, 2004, 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 and Application Data Sheet.

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).

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 Irvin Dingle at (571) 272-3210.

This application is being forwarded to Technology Center Art Unit 1743 for appropriate action on the amendment submitted August 2, 2004, 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 nonprovisional and PCT 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 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.

K. Shannon Mrksich
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

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OCT 3 1 2005
OFFICE OF PETITIONS

In re Application of	:	
Imperiali et al.	:	
Application No. 10/235,561	:	LETTER REGARDING
Filed: September 5, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. 11127/4	:	
	:	

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed May 11, 2005. Applicants disclose that the initial determination of patent term adjustment in the above-identified application should be corrected from two hundred thirty-five (235) days to two hundred thirty-two (232) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is two hundred thirty-two (232) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 19, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 235 days. Applicants disclose that the reduction pursuant to § 1.704(b) should be 145 days, not 142 days. Applicants disclose that the entry of a date of receipt of June 27, 2003 for the relevant response is incorrect. The response

was received in the Office on June 30, 2003, with a certificate of mailing date of June 27, 2003.

The application history has been reviewed, and it has been determined that applicants are correct. A period of reduction of 145 days (not 142 days) pursuant to § 1.704(b) should have been entered. As recognized by applicants, "[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).

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is two hundred thirty-two (232) days (377 - 145).

As this letter was submitted as an advisement to the Office of an error in Applicants' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks applicants for their good faith and candor in bringing this matter to the attention of the Office.

The application is being forwarded to the Office of Patent Publication for issuance of the application. The Issued Patent will include any patent term adjustment accrued for Office failure to issue the patent within 4 months of the date the Issue Fee was paid and all outstanding requirements met.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of adjusted PAIR calculation

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DIW May-08

MAYER BROWN LLP
P.O. BOX 2828
CHICAGO IL 60690

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MAY 0 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Clifford H. Wallach	:	DECISION ON PETITION TO
Application Number: 10/235574	:	WITHDRAW HOLDING OF
Filing Date: 09/05/2002	:	ABANDONMENT
Attorney Docket Number:	:	
01920684	:	

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.182 TO CONSIDER CORRESPONDENCE RECEIVED BY THE OFFICE AS TIMELY," filed on March 26, 2008, which is treated as a petition to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned on March 6, 2007, for failure to timely respond to the non-final Office action mailed on December 5, 2006, 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 February 7, 2008.

Petitioner alleges that an amendment and petition for a one (1) month extension of time in response to the non-final Office action mailed on December 5, 2006, were deposited in "Express Mail" service with the U.S. Postal Service on April 5, 2007. In support, petitioner has supplied a copy of Express Mail label no. EV548613275US (the same Express Mail number found on the first page of the amendment and petition for extension of time). The Express Mail label contains a "date-in" of "4 5 07." A duplicate copy of the amendment and petition has also been supplied.

The petition is signed by registered patent practitioner Victoria Friedman, the same individual who also signed the response asserted to have been filed on April 5, 2007, and includes a

statement that "applicant's representative mailed the original correspondence addressed to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS.

37 CFR 1.10(e) states:

> Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Director to consider such correspondence filed in the Office on the USPS deposit date, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
>
> (3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and
>
> (4) The petition includes a statement which establishes, to the satisfaction of the Director, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed

correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In", or other evidence from the USPS on the Express Mail label.[1] That is the date that verifies that the package was actually mailed. In view of the above, the showing of record is that the correct date of deposit in Express Mail of the amendment, and petition for a one (1) month extension of time, in response to the non-final Office action mailed on December 5, 2006, is April 5, 2007.

In view of the above, the petition is granted. No petition fee is required. The fee paid with the petition, less a one (1) month extension of time fee, will be refunded to counsel.

As petitioners have provided convincing evidence that a response to the non-final Office action mailed on December 5, 2006, was filed on April 5, 2007, the showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The application is being referred to Technology Center Art Unit 2616 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[1] MPEP 513.

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P.O. BOX 2828
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OFFICE OF PETITIONS

In re Application of
Wallach
Application No. 10/235,574
Filed: September 5, 2002
Atty. Dkt. No.: 01920684

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST UNDER 37 C.F.R. § 1.705 FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed October 10, 2008. 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**.

The Determination of Patent Term Adjustment mailed July 10, 2008 indicated that the application is entitled to adjustment of 1,126 days. Applicants argue that the correct adjustment is 1,435 days.

The correct PTA at the time of the allowance is 1,435 days, as argued.

Applicant does not dispute the adjustment totaling 1,126 days under 37 CFR 1.702(a)(1). Applicant argues that the application is entitled to an additional adjustment of 340 days in connection with the mailing of the Notice of Allowance on July 10, 2008. Applicant further asserts that the Office neglected to assess a reduction of 31 days in connection with the response filed April 5, 2007.

A review of the record reveals that the application is entitled to a further adjustment of 340 days in accordance with 37 CFR 1.702(a)(2) in connection with the mailing of the Notice of Allowance on July 10, 2008. The adjustment commenced August 6, 2007 and ended July 10, 2008. See, 37 CFR 1.703(a)(2).

As indicated by applicant, the adjustment is subject to a reduction of 31 days in connection with the reply filed April 5, 2007. The reduction commenced March 6, 2007 and ended April 5, 2007.

In view thereof, as of the time of allowance, the application is entitled to an adjustment of 1,435 days (adjustments totaling 1,466 days less reductions totaling 31 days).

Receipt is hereby acknowledged of the required PTA application fee of $200.00.

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 Office of Patent Publications for issuance of a patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Adjusted PAIR Calculation

Day : Thursday
Date: 7/16/2009

PALM INTRANET

Time: 05:44:08

PTA Calculations for Application: 10/235574			
Application Filing Date:	09/05/2002	PTO Delay (PTO):	1126
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	1435
PTO Delay Adjustment:	309		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
36	07/16/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		31	
35	07/16/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	340		
28	07/10/2008	MAIL NOTICE OF ALLOWANCE			
27	07/07/2008	ISSUE REVISION COMPLETED			
26	07/07/2007	DOCUMENT VERIFICATION			
25	07/07/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
24	07/07/2008	NOTICE OF ALLOWABILITY			
23	05/08/2008	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
22	05/08/2008	PETITION TO REVIVE APPLICATION - GRANTED			
21	03/26/2008	PETITION ENTERED			
20	02/07/2008	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
19	02/04/2008	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
18	01/30/2008	CASE DOCKETED TO EXAMINER IN GAU			
17	01/02/2008	CASE DOCKETED TO EXAMINER IN GAU			
16	12/12/2006	CASE DOCKETED TO EXAMINER IN GAU			
15	12/05/2006	MAIL NON-FINAL REJECTION	1126		-1
14	11/30/2006	NON-FINAL REJECTION			
13	08/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
12	08/04/2006	CASE DOCKETED TO EXAMINER IN GAU			
11	08/03/2006	CASE DOCKETED TO EXAMINER IN GAU			
10	04/24/2006	CASE DOCKETED TO EXAMINER IN GAU			
9	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			

8	12/03/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
7	10/27/2004	CORRESPONDENCE ADDRESS CHANGE			
6	09/20/2004	CORRESPONDENCE ADDRESS CHANGE			
5	03/20/2003	CASE DOCKETED TO EXAMINER IN GAU			
4	10/24/2002	APPLICATION DISPATCHED FROM OIPE			
3	10/23/2002	APPLICATION IS NOW COMPLETE			
2	09/13/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/05/2002	INITIAL EXAM TEAM NN			

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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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NEW YORK, NY 10281-2101

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OFFICE OF PETITIONS

In re Application of :
Toshihiro Sunaga :
Application No. 10/235,620 :
Filed: September 4, 2002 :
Attorney Docket No. 1232-4906 :

ON PETITION

This is a decision on the petition, filed January 4, 2005[1], 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 29, 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. [2]

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 2851 for further processing of the request for continued examination under 37 CFR 1.114 filed January 4, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] It is noted that the present communication includes a copy of, inter alia, a petition under 37 CFR 1.313(c)(2), a Request for Continued Examination (RCE) and an Information Disclosure Statement (IDS) purportedly filed using "Express Mail" on December 6, 2004. Since there is no evidence provided in compliance with the requirements of 37 CFR 1.10, the actual date of receipt by facsimile transmission is being used as the filing date of the petition, RCE and IDS. The requisite fees will be charged to counsel's deposit account as authorized.

[2] 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 : January 5, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Toshihiro Sunaga
Application No. : 10/235,620
Filed : September 4, 2002

The above-identified application has been assigned Patent No. 6,840,630 and an issue date of January 11, 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 January 11, 2005:

> "All reference to Patent No. 6,840,630 to TOSHIHIRO SUNAGA, of JAPAN for PROJECTION OPTICAL SYSTEM AND OPTICAL SYSTEM appearing in the Official Gazette of January 11, 2005, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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Paper No. 9

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WASHINGTON DC 20005

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JUN 2 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Natarajan, et al.	:	DECISION ON PETITION
Application No. 10/235,633	:	
Filed: September 6, 2002	:	
Attorney Docket No. SAIC0004-CIP	:	

This is a decision on the petition filed May 13, 2004, 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 reply to the Notice to File Missing Parts of Nonprovisional Application, mailed October 22, 2002. This Notice set a period for reply of two months from the mail date of the Notice to submit an executed oath or declaration (and a surcharge for its late filing). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on December 23, 2002. A Notice of Abandonment was mailed on February 10, 2004.

With the instant petition, petitioner submitted an executed declaration (with the surcharge for its late filing), paid the petition fee, and made the proper statement of unintentional delay.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1480 extension of time fee submitted with the petition on May 13, 2004 was subsequent to the maximum period obtainable for reply (April 22, 2003), this fee has been refunded to petitioner's Deposit Account No. 50-1458.

The Change of Correspondence Address submitted with the instant petition has been entered.

The application file is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

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RESTON, VA 20191

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OFFICE OF PETITIONS

In re Patent No. 6,859,126 :
Issue Date: February 22, 2005 :
Application No. 10/235,645 :
Filed: September 6, 2002 :
Title: NONCONTACT TRANSFORMER :

ON PETITION

This is a decision on the "Petition Under 37 CFR 1.183 Requesting Reprinting of U.S. Patent No. 6,859,126," filed September 20, 2005.

Petitioner asserts numerous Office errors in the printing of the above-identified patent that require correction and reprinting of the above-identified patent.

However, a petition under 37 CFR 1.183 cannot affect what petitioner requests. Petitioner should file a petition under 37 CFR 1.322(b) requesting the issuance of a corrected patent. *See* 37 CFR 1.322(b) and MPEP 1002.02(l).

As such, the petition is dismissed as inappropriate.

The petition fee has not been charged.

This file is being returned to Files Repository.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

William E. Lyddane
Greenblum & Bernstein, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191

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APR 30 2007

OFFICE OF PETITIONS

In re Application of
Iwao, et al.
Application No.: 10/235,645
Filed: September 6, 2002
For: U.S. Patent No.: 6,859,126

: DECISION
: GRANTING PETITION

This is in response to the "Petition Under 37 C.F.R. § 1.322(b) Requesting Issuance of a Corrected Patent for U.S. Patent No. 6,859,126" dated 28 February 2006, which will be treated as a petition for certificate of correction.

The petition is granted.

The disclosure of the above-identified application was printed as U.S. Patent 6,859,126 with the following mistakes, as identified by Petitioner: the patent was incorrectly issued with the Abstract, Specification, and Drawings of U.S. Patent Application No. 10/253,699.

37 CFR § 1.322 Certificate of correction of Office mistake.

> (a)(1) The Director may issue a certificate of correction pursuant to 35 U.S.C. 254 to correct a mistake in a patent, incurred through the fault of the Office, which mistake is clearly disclosed in the records of the Office:
> (i) At the request of the patentee or the patentee's assignee;
> . . .
> (b) If the nature of the mistake on the part of the Office is such that a certificate of correction is deemed inappropriate in form, the Director may issue a corrected patent in lieu thereof as a more appropriate form for certificate of correction, without expense to the patentee.

37 CFR § 1.322(b) indicates that the Office may issue a corrected patent in lieu of a certificate of correction, where a corrected patent is considered more appropriate in form than a certificate of correction. Office practice is to regard a "corrected patent" a complete republication of the patent that removes the prior mistake(s), includes no certificate of correction, and contemplates updating of databases if necessary.

Petitioner has adequately shown the mistakes were caused by the Office, when the Office incorrectly printed the Abstract, Specification, and Drawings of U.S. Patent Application No.

10/253,699. This application was properly submitted to the Office by Petitioner on an Information Disclosure Statement.

While Petitioner may have satisfied the requirements of 37 CFR § 1.322(b) and a corrected patent may be more appropriate in form than a certificate of correction, Petitioner's representative, Mr. William E. Lyddane, Reg. No. 41,568, during telephone conversations with Samuel Broda, Legal Advisor, has requested issuance of a certificate of correction, because of the need for rapid correction. Accordingly, this petition will be treated as a request for certificate of correction and is granted.

Conclusion

The application is being forwarded to the Office of Patent Publication, Ms. Marietta Joyce, Team Leader, Certificates of Correction, for issuance of an appropriate certificate of correction.

Telephone inquiries regarding this communication should be directed to Samuel Broda at (571) 272-7711.

Hiram Bernstein
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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Perkins Coie LLP
Post Office Box 1208
Seattle, WA 98111-1208

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AUG 2 4 2004

OFFICE OF PETITIONS

In re Application of :
James M. Lipton, et al. :
Application No. 10/235,682 : ON PETITION
Filed: September 5, 2002 :
Attorney Docket No. 54275.8012.US01 :

This is a decision on the petition under 1.78(a)(6), filed June 7, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR § 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR § 1.76(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 application.

The instant pending nonprovisional application was filed on September 5, 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.

The current procedure where a claim for priority under 37 CFR § 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(5)(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)(6).[1] In the instant case, the Office noted the claim for priority of the prior-filed application in the transmittal letter filed with the application, as shown by their inclusion on the filing receipt.

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 Marianne Jenkins at (703) 306-3475. 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 the Examiner of Technology Center AU 1642 for appropriate action on the amendment filed June 7, 2004, including consideration of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for benefit of the prior-filed applications.

Frances M. 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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JUL 12 2005
TECHNOLOGY CENTER 3600

FENNEMORE CRAIG
3003 NORTH CENTRAL AVENUE
SUITE 2600
PHOENIX, AZ 85012

In re application of
Marvin D. Johnson :
Application No. 10/235,725 :
Filed: September 04, 2002 :
For: MOUNTING APPARATUS AND METHOD FOR USE WITH A TILE ROOF :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on February 07, 2005 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 **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).

It is noted that the inventors have filed a paper on February 7, 2005 opposing the request to withdraw. However, the request is "APPROVED" in spite of the inventors dispute of the attorney's claims regarding payment of bills and cooperation between the parties. Clearly, there exists some difficulties between the client and practitioner and therefore the practitioner may determine when the employment can not be carried out effectively.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6587

KJD/slb: 6/15/05

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COOK, ALEX, MCFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
SUITE 2850
200 WEST ADAMS STREET
CHICAGO IL 60606

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AUG 0 9 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Hajime Kimura	:
Application No. 10/235,734	:
Filed: September 5, 2002	:
Attorney Docket No. 0553-0332	:

This is a decision on the petition, filed August 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 May 2, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

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

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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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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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JUN 01 2007

OFFICE OF PETITIONS

In re Application of
Todaka et al.
Application No. 10/235,755
Filed: September 6, 2002
Attorney Docket : 03500.016708

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed May 3, 2007.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application was held abandoned April 25, 2006 for failure to timely reply to the final Office Action mailed on January 24, 2006. The non-final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed on December 24, 2006.

Petitioner asserts that the final Office Action mailed on January 24, 2006 was never received. Petitioner states a search of docket records confirms the Office Action was not received. In support of petitioner's contention, a copy of the docket records has been provided.

In view of the evidence submitted, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

This application is being forwarded to Art Unit 2176 for re-mailing of the 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 Office Communication.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 18, 2008

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/235758 Patent No.: 7266239 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Director's/SPE response to 571-273-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The CERTIFICATE of CORRECTION has been APPROVED AS TO MATTERS not AFFECTING the SCOPE of the invention

SAMIR AHMED
SUPERVISORY PATENT EXAMINER
SPE

2624
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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APR 23 2009

OFFICE OF PETITIONS

In re Application of

Bowers, et al.

Application No. 10/235,768

Filed: September 5, 2002

Attorney Docket No. 13846US01

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed March 27, 2009.

The petition is **granted**.

This application was held abandoned October 9, 2008, after no reply was received to the final Office action mailed July 8, 2008. The notice set forth a shortened statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on October 9, 2008. A Notice of Abandonment was mailed January 30, 2009. The instant petition was filed on March 27, 2009. Petitioner maintains that the final Office action, was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The Notice of Appeal, filed March 27, 2009, has been entered and made of record. Accordingly, the two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

The application file is being forwarded to Technology Center 2100, GAU 2168 for further processing and to await the filing of the appeal brief.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

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OFFICE OF PETITIONS

In re Patent No. 6,901,250 :
Issued: May 31, 2005 :
Application No. 10/235,774 : DECISION REGARDING PTA
Filed: September 5, 2002 :
Atty. Dkt. No.: 9281-4388 :

This decision is in response to the "PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed June 30, 2005. This petition is being treated as timely filed under 37 CFR 1.705(d).

The request for reconsideration of patent term adjustment ("PTA") under 37 CFR 1.705(d) is **GRANTED**.

The instant application issued as U.S. Pat. No. 6,901,240 on May 31, 2005 with a PTA of 458 days. The instant application for PTA was timely filed June 30, 2005. Applicant argues that the application should have been accorded a PTA of 460 days on the grounds that there was no failure by applicants to engage in reasonable efforts to conclude prosecution.

A review of the application history reveals that an adjustment of 460 days under 37 CFR 1.702(a)(1) was attributed to the Office. In accordance with 37 CFR 1.703(a)(1), the adjustment began November 6, 2002, the day after the date that is 14 months from the date upon which the application was filed, and ended February 7, 2005, the date a Notice of Allowance was mailed.

Applicant argues that the adjustment of 460 days was improperly reduced two days with respect to a request for foreign priority. Applicant further argues that the priority papers were submitted with the application as filed.

Review of the application history reveals that applicant is correct in that the priority documents were present upon filing. Thus, the Office errantly entered March 10, 2005 as the date of such submission.

Accordingly, the patent is entitled to an adjustment of 460 days as argued.

The Office acknowledges receipt of the required application fee of $200.00.

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 460 days.

Telephone inquiries specific to this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3202.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Draft Certificate of Correction

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United States Patent and Trademark Office
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AUG 15 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

G.E. EHRLICH (1995) LTD.
c/o ANTHONY CASTORINA
SUITE 207
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

In re Application of
CEDERWALL, CHRIS, et al.
Application No. 10/235,822
Filed: September 6, 2002
For: **APPARATUS AND METHOD FOR EFFICIENT ANIMATION OF BELIEVABLE SPEAKING 3D CHARACTERS IN REAL TIME**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the petition filed June 19, 2005 to withdraw holding of abandonment pursuant to 37 C.F.R.§ 1.181(a). No fee is required.

The petition is **GRANTED**.

The application was abandoned for failure to respond in a timely and effective manner to the Restriction Requirement mailed August 9, 2004. A Notice of Abandonment was mailed on June 3, 2005.

Petitioner asserts that a proper response was timely filed on November 26, 2004. In support of the petition, Petitioner has submitted, a copy of Applicant's reply (election) and a date-stamped post card receipt evidencing receipt of the response within the United States Patent & Trademark Office on November 26, 2004. A copy of petition for three months extension was also included with the petition.

The original correspondence filed was not matched with the application file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the U.S.PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Patent and Trademark Office but not matched with the application file. The fees submitted with the original response have been received and credited to the instant application.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The application file will be forwarded to the Technology Center's technical support staff for entering the copy of the election submitted with the petition. From there, the file will be forwarded to the examiner for further examination in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

SPE: P. Hassanzadeh

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/6/06

TO SPE OF : ART UNIT 1763

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/235,824 Patent No.: 6984267

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 priority document was provided on parent application 09/342,057.

PARVIZ HASSANZADEH
SUPERVISORY PATENT EXAMINER

SPE

1763
Art Unit

PAGE 2/2 * RCVD AT 6/13/2006 2:48:04 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/2 * DNIS:2709990 * CSID:703 306 3186 * DURATION (mm-ss):00-44

SPE: P. Hassanzadeh

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/6/06

TO SPE OF : ART UNIT 1763

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/235,824 Patent No.: 6984267

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 priority document was provided on parent application 09/342,057.

PARVIZ HASSANZADEH
SUPERVISORY PATENT EXAMINER

SPE

1763
Art Unit

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SHOEMAKER AND MATTARE, LTD
10 POST OFFICE ROAD - SUITE 110
SILVER SPRING, MD 20910

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MAY 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Guillebeau, Otis	:	
Application No. 10/235,836	:	ON PETITION
Filed: September 6, 2002	:	
Attorney Docket No. 5202	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 29, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed July 20, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on October 21, 2004. A Notice of Abandonment was mailed March 31, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to Technology Center 3600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,657,142	2003-12-02	10/235,843	2002-09-06	SUND 399

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	/Steven M. Rabin/	Date (YYYY-MM-DD)	2008-03-06
Name	Steven M. Rabin	Registration Number	29102

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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United States Patent and Trademark Office
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In re Patent No. 6657142
Issue Date: December 2,2003
Application No. 10235843
Filed: September 6,2002
Attorney Docket No. SUND 399

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 6,2008 ,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 March 6,2008 . 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 30, 2010

TO SPE OF : ART UNIT 3627 - SPE

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/235,889 Patent No.: 7,028,004 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should the changes in the claims be approved?
See COCIN dated 03-15-2010

Certificates of Correction Branch

(571)272-0483

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/Andrew J. Fischer/ — SPE

3621 — Art Unit

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/235,921	09/06/2002	Hua Qi	HOYA 0023	2537

24203 7590 06/24/2004

GRIFFIN & SZIPL, PC
SUITE PH-1
2300 NINTH STREET, SOUTH
ARLINGTON, VA 22204

EXAMINER
SANDERS JR, JOHN R

ART UNIT	PAPER NUMBER
3737	

DATE MAILED: 06/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

GRIFFIN & SZIPL, PC
SUITE PH-1
2300 NINTH STREET, SOUTH
ARLINGTON VA 22204

In re application of: :
Hua QI :
Serial No.: 10/235,921 :
Filed: September 6, 2002 :
For: Method for Evaluating Binocular :
Performance of Spectacle Lenses, :
Method for Displaying Binocular :
Performance, and Apparatus Therefore

The petition under 37 CFR 1.84(a)(2) to accept Color Drawings filed on September 6, 2002 has been considered. The petition has been accompanied by:

(X) the fee set forth in § 1.17(i);
(X) three (3) sets of color drawings; and
(X) the requisite statement set forth in 37 CFR 1.84(a)(2)(iii) .

Accordingly, the petition is GRANTED.

Angela D. Sykes
Supervisory Patent Examiner
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
2421 N.W. 41ST STREET
SUITE A-1
GAINESVILLE, FL 32606-6669

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SEP 14 2004

OFFICE OF PETITIONS

In re Application of	:
Lemmo et al.	:
Application No. 10/235,922	: DECISION GRANTING PETITION
Filed: September 6, 2002	: UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. TPI-T1000XC1	: 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 August 3, 2004, 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 and Application Data Sheet (ADS).

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, 2004 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 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 (703) 306-0482.

This application is being forwarded to Technology Center Art Unit 2878 for appropriate action on the amendment submitted August 3, 2004, 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 nonprovisional and PCT 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.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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MAY 2 2 2003

Technology Center 2100

Paper No. 6

John W. Ryan
Wilmer, Cutler & Pickering
2445 M Street, NW
Washington, DC 20037

In re Application of: Dany DRIF, et al.	)	
Application No. 10/235,923	)	**DECISION ON REQUEST FOR**
Filed: September 6, 2002	)	**WITHDRAWAL AS ATTORNEY**
For: ASSISTANCE REQUEST SYSTEM	)	

This is a decision on the Request To Withdraw from Representation filed March 25, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

No further communications to you regarding this application will be made. All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

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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VasConnect Inc
1460 Maria Lane Suite 310
Walnut Creek, CA 94596

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OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Kupiecki, et al. : DECISION ON PETITION
Application No. 10/235,944 :
Filed: September 4, 2002 :
Docket No.: VASC-010 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 30, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-final Office action mailed November 8, 2005. The Notice set a three (3) month shortened statutory period of time for reply. No petition for extension of time in accordance with 37 C.F.R. § 1.136 was timely submitted. Notice of Abandonment was mailed May 19, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

There is no indication in the official application file wrapper that petitioner was ever empowered to represent the instant patent. If petitioner desires to receive future correspondence regarding this patent, including future maintenance fee notices, the appropriate documentation must be submitted to the Office. **Petitioner is advised that all future correspondence will be**

directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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.

This application will be forwarded to Technology Center 3700 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

CC: PATRICK FAY
Fay Kaplun & Marcin LLP
150 Broadway Suite 702
New York, NY 10038

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OFFICE OF PETITIONS

VasConnect Inc
1460 Maria Lane Suite 310
Walnut Creek, CA 94596

In re Application of :
Akin al. : DECISION ON PETITION
Application No. 10/235,948 :
Filed: September 6 2002 :
Docket No.: VASC-009 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 30, 2006, 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 August 26, 2005. The Notice set a three (3) month shortened statutory period of time for reply. No petition for extension of time in accordance with 37 C.F.R. § 1.136 was timely submitted. Notice of Abandonment was mailed July 5, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

There is no indication in the official application file wrapper that petitioner was ever empowered to represent the instant patent. If petitioner desires to receive future correspondence regarding this patent, including future maintenance fee notices, the appropriate documentation must be submitted to the Office. **Petitioner is advised that all future correspondence will be**

directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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.

This application will be forwarded to Technology Center 3700 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

CC: PATRICK FAY
Fay Kaplun & Marcin LLP
150 Broadway Suite 702
New York, NY 10038

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SEP 17 2004

In re Patent No. OHYAMA ET AL.	:	
Issue Date: 6,772,650	:	**DECISION GRANTING**
Appl No.: 10/235,955	:	**PETITION**
Filed: September 06, 2002	:	*37 CFR 1.324*
For: AUTOMATIC SAMPLE ANALYZER AND ITS COMPONENTS	:	

This is a decision on the petition under 37 CFR 1.48, filed July 14, 2004. In view of the fact that the patent has already issued, the request under 37 CFR 1.48 has been treated as a petition 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.

Hezron E. Williams
Supervisory Patent Examiner
Art Unit 2856
Patent Examining Group 2800

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

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DOWELL & DOWELL P.C.
103 Oronoco St.
Suite 220
Alexandria, VA 22314

Mail Date: 05/14/2010

Applicant	: Rafi Rabipour	: DECISION ON REQUEST FOR
Patent Number	: 7639601	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/235,959	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/06/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1538** 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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DAVID T. YANG
MORRISON & FOERSTER LLP
35TH FLOOR
555 W. 5TH STREET
LOS ANGELES, CA 90013

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JUL 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Michael A. SHEHA, et al	:	
Application No. 10/235,963	:	DECISION ON PETITION
Filed: September 4, 2002	:	
Attorney Docket No. 513162000300	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 12, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 16, 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 January 17, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540; and (3) an adequate 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 $120 extension of time fee submitted with the petition on May 12, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account 03-1952.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 2614 for appropriate action by the Examiner in the normal course of business on the reply received May 12, 2008.

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 4

PEARNE & GORDON, LLP
526 Superior Avenue, East
Suite 1200
Cleveland, OH 44114-1484

AUG 29 2003

In re Application of
Robert Tomsich
Application No. 10/235,972
Filed: September 5, 2002
Attorney Docket No. 34588

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed November 19, 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(h), (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 lacks item (b) above. To expedite the examining proceeding of this application, this decision is rendered based on the assumption that all claims presented in this application are directed to a single invention. However, should the examiner hold that the claims are not directed to a single invention, applicant is hereby required to make an oral election without traverse. Failure to make an oral election without traverse would result in the application file being returned to the Group Director's office for issuance of a decision vacating this decision and

withdrawing the special status granted hereby.

For the above stated reasons, the petition is GRANTED.

The application is being forwarded to the examiner for examination under the accelerated examination procedure.

The application is being forwarded to the examiner for expedited prosecution.

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.

The petition is granted to the extent indicated.

Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAR -4 2005

Paper No. 12

In re Application of	:
Michael D. Vanzandt	:
Application No. 10/235,973	: DECISION ON PETITION
Filed: September 4, 2002	:
For: V-Nose Toe Nail Clipper	:

This is a decision on the petition filed on October 25, 2004. The petition is supported by material that was filed in the Office on August 10, 2004 by facsimile transmission. Petitioner is acting *pro* se in this matter. The petition is being considered under 37 CFR 1.181, and no fee is required.

The petition is granted.

A review of the petition and of the record shows that this application was held abandoned for failure to file a reply to the Office letter dated March 18, 2004. That letter was a notice that petitioner's March 8, 2004 reply to the Office letter dated December 11, 2003 was not signed.

It appears from Office records that the only matter that petitioner has had pending before the Office from at least 1995 through the present is the instant patent application. Therefore, the copy of the Track & Confirm receipt from the United States Postal Service showing that an item was delivered to the Office on April 1, 2004, taken with the copy of the United States Postal Service Delivery Confirmation Receipt showing that correspondence was mailed to the Office on dated March 29, 2004, is considered to establish that papers directed to this application were filed. Petitioner's statement that the papers filed by facsimile on August 10, 2004 are copies of the papers filed on April 1, 2004 is accepted. The signature on the transmittal letter attached to the papers filed on August 10, 2004 is taken as a ratification of those papers. It appears, therefore, that a timely reply to the Office letter dated March 18, 2004 was in fact filed.

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 appropriate action on the reply filed on April 4, 2004. Petitioner is advised to file all future replies in this application a certificate of mailing, as was done in the petition. If a post card receipt or United States Postal Service Receipt is relied upon, petitioner is advised that those items being mailed be listed on the receipt, and any tracking number on the receipt must be typed or written on the papers being filed.

PETITION GRANTED.

E. R. Kazenske, Director
Technology Center 3700

Michael Vanzandt
807 West County Line Rd.
Troup, TX 75789

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

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SEP 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Tatsuo Chigira et al :
Application No. 10/235,975 :
Filed: September 4, 2002 :
Attorney Docket No. 1232-4909 :

ON PETITION

This is a decision on the petition, filed September 21, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on 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 should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 2851 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 03 2006

OFFICE OF PETITIONS

MORGAN & FINNEGAN
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

In re Application of :
Tatsuo Chigira et al :
Application No. 10/235,975 : ON PETITION
Filed: September 4, 2002 :
Attorney Docket No. 1232-4909 :

This is a decision on the petition, filed December 29, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 11, 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 2851 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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

BURR & BROWN
PO BOX 7068
SYRACUSE, NY 13261-7068

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AUG 14 2006
OFFICE OF PETITIONS

In re Application of	:	
Shigeki Kira, et al.	:	
Application No. 10/235,999	:	ON PETITION
Filed: September 5, 2002	:	
Attorney Docket No.: 815_002 CIP	:	

This is a decision on the petition, filed August 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 July 10, 2006, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated July 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2624 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : August 14, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Shigeki Kira, et al.
Application No. : 10/235,999
Filed : September 5, 2002

The above-identified application has been assigned Patent No. 7,099,501 and an issue date of August 29, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of August 29, 2006:

> "All reference to Patent No. 7,099,501 to SHIGEKI KIRA, ET AL. of JAPAN for PROBE REACTIVE CHIP, SAMPLE ANALYSIS APPARATUS, AND METHOD THEREOF appearing in the Official Gazette of August 29, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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John Stattler
STATTLER JOHANSEN & ADELI LLP
P.O. Box 51860
Palo Alto, CA 94303-0728

MAILED

MAY 31 2005

Technology Center 2100

In re Application of:	)	
Andrew Toy	)	
Application No. 10/236,003	)	
Filed: September 04, 2002	)	**DECISION ON REQUEST FOR**
For: METHOD AND APPARATUS FOR	)	**WITHDRAWAL AS ATTORNEY**
IMPLEMENTING A REAL-TIME EVENT	)	
MANAGEMENT PLATFORM	)	

This is a decision on the Request To Withdraw from Representation filed February 25, 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**.

Accordingly, the request is **DENIED**.

All future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

Michelle R. Eason for

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

MANATT PHELPS AND PHILLIPS
ROBERT D. BECKER
1001 PAGE MILL ROAD, BUILDING 2
PALO ALTO, CA 94304

In re Application of
SANJAY KAPOOR, et al
Application No. 10/236,003
Filed: September 4, 2002
Attorney Docket No. NRNA.P0001

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 25, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to, Manatt Phelps and Phillips has been revoked by the assignee of the patent application on February 13, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future correspondence from the Office will continue to be directed to the below-listed address unless otherwise notified by applicant.

There are no pending Office actions at the present time.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: SCOTT MCKEOWN
OBLON, SPIVAK, MCCLELLAND,
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314-3412

DATE 4/26/07

APPLICATION NUMBER 10/236,603

DOC CODE N570

DOC DATE 4/27/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/21/2010

Applicant	: David A. Simon	: DECISION ON REQUEST FOR
Patent Number	: 7606613	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/236,013	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/05/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1847** 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.

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)
6926532	2005-08-09	10236021	2002-09-04	BRA1633.50A

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	/John P. O'Banion/	Date (YYYY-MM-DD)	2010-01-29
Name	John P. O'Banion	Registration Number	33201

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. 6926532
Issue Date: August 9,2005
Application No. 10236021
Filed: September 4,2002
Attorney Docket No. BRA1633.50A

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed January 29,2010 ,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 January 29,2010 . 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 21, 2007

TO SPE OF : ART UNIT 3672

SUBJECT : Request for Certificate of Correction for Appl. No. 10/236026 patent No.: 7100697

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: _____

DAVID BAGNELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3672
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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700 KOPPERS BUILDING
436 SEVENTH AVE
PITTSBURGH PA 15219-1818

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NOV 03 2004

OFFICE OF PETITIONS

In re Application of	:	
Patrick C. Westlake	:	
Application No. 10/236,028	:	ON PETITION
Filed: September 5, 2002	:	
Attorney Docket No. 2982-021683	:	

This is a decision on the "PETITION TO REVIVE UNDER 37 C.F.R. §1.137(a), filed October 4, 2004.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled, "Renewed Petition under 37 CFR 1.137(a)." There is no fee for a renewed petition.

The above-identified application became abandoned for failure to timely file the issue and publication fees in response to the Notice of Allowance mailed March 30, 2004, which set a statutory period for reply of three months. No issue and publication fee having been received, the above-identified application became abandoned on July 1, 2004. A Notice of Abandonment was mailed on August 4, 2004.

Consideration of petition under 1.137(a) (Unavoidable Delay):

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy requirement (3).

As to requirement (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."[1]

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the MPEP, however, does not constitute "unavoidable" delay.[2]

Petitioner states that he promptly filed the issue and publication fees. As proof thereof, petitioner has submitted a copy of a PTOL-85B Issue Fee Transmittal form for the above identified application, bearing a Certificate of Mailing dated June 22, 2004. The PTOL-85B listed the issue and publication fee as being enclosed.

The PTOL-85B with a Certificate of Mailing thereon can not be used as proof that petitioner submitted the issue and publication fees. There is nothing in the record that precludes the possibility that petitioner forgot to include the check with the submission of the PTOL-85B. Petitioner has not submitted a USPTO date stamped postcard receipt itemizing the issue and publication fees, per MPEP 503.

Conclusion:

Receipt of the $55 petition fee, $685 issue fee, and $300 publication fee is acknowledged.

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, applicant is 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).

---

[1] In re Mattulath, 38 App. D.C. 497, 514-15 (1912)(*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Address: COMMISSIONER FOR PATENTS
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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Mail Date: 04/21/2010

Applicant	: Gavin J. Gordon	: DECISION ON REQUEST FOR
Patent Number	: 7622260	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/236,031	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/05/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1194** 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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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Mail Date: 05/18/2010

Applicant : Gavin J. Gordon
Patent Number : 7622260
Issue Date : 11/24/2009
Application No : 10/236,031
Filed : 09/05/2002

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1236** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

MAR - 4 2003

UR
PAPER NO. 7

In re Application of	:	
Steven C. Bytnar	:	DECISION
Serial No. 10/236,043	:	ON
Filed: September 05, 2002	:	PETITION
For: DE-ICING COMPOSITION AND METHOD	:	UNDER 708.02,V

This is in response to the petition filed September 05, 2002, requesting that the above-identified application be granted Special Status under Sections 708.02 (V) of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly the petition is **GRANTED.**

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Patterson, Thuente, Skaar & Christensen, P.A.
80 South 8th Street
4800 IDS Center
Minneapolis, MN 55402-2100

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Paper No. 10

BROMBERG & SUNSTEIN
125 SUMMER STREET
BOSTON, MA 02110-1618

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MAY 2 2 2003

OFFICE OF PETITIONS

In re Application of Haruhiko H. Asada et al Application No. 10/236,058 Filed: September 5, 2002 For: SOURCE CODING FOR INTERFERENCE REDUCTION	DECISION GRANTING STATUS UNDER 37 CFR 1.47(A)

This is in response to the petition under 37 CFR 1.47(a), filed February 14, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventors cannot be located to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to Technology Center AU 2133 for examination in due course.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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KAI-YEUNG SIU
197 8TH STREET, #159
CHARLESTOWN, MA 02129

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MAY 2 2 2003

OFFICE OF PETITIONS

In re Application of
Asada; Liu; Cem; and Siu
Application No. 10/236,058
Filed: September 5, 2002
For: SOURCE CODING FOR INTERFERENCE REDUCTION

Dear Mr. Siu:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks
Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC:
BROMBERG & SUNSTEIN
125 SUMMER STREET
BOSTON, MA 02110-1618

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

ERIN CEM
24 HIGHLAND AVENUE
CAMBRIDGE, MA 02129

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MAY 2 2 2003

OFFICE OF PETITIONS

In re Application of
Asada; Liu; Cem; and Siu
Application No. 10/236,058
Filed: September 5, 2002
For: SOURCE CODING FOR INTERFERENCE REDUCTION

Dear Mr. Cem:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC:
BROMBERG & SUNSTEIN
125 SUMMER STREET
BOSTON, MA 02110-1618

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CHUN-HUNG LIU
55 RIVER STREET
CAMBRIDGE, MA 02139

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OFFICE OF PETITIONS

In re Application of
Asada; Liu; Cem; and Siu
Application No. 10/236,058
Filed: September 5, 2002
For: SOURCE CODING FOR INTERFERENCE REDUCTION

Dear Mr. Liu:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks
Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC:
BROMBERG & SUNSTEIN
125 SUMMER STREET
BOSTON, MA 02110-1618

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KAI-YEUNG SIU
197 8TH STREET, #159
CHARLESTOWN, MA 02129

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OFFICE OF PETITIONS

In re Application of
Asada; Liu; Cem; and Siu
Application No. 10/236,058
Filed: September 5, 2002
For: SOURCE CODING FOR INTERFERENCE REDUCTION

Dear Mr. Siu:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Technology Center 2100

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BROMBERG & SUNSTEIN
125 SUMMER STREET
BOSTON, MA 02110-1618

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January 15, 2004

Darrell L. Wong
Hamilton, Brook, Smith & Reynolds
530 Virginia RD., P.O. Box 9133
Concord, MA 01742-9133

In re application of:
Jung-Hoon Chun, etal DECISION ON PETITION
Serial No: 10/236,061
Filed: September 5, 2002
For: APPARATUS AND PROCESS FOR MANUFACTUREING SOLDER BALLS

This is a decision on the petition received by fax on August 26, 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Nonprovisional Application on October 7, 2002. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned December 10, 2002

On August 26, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney never received the Notice to File Missing Parts of Nonprovisional Application mailed on October 7, 2002.

The petition is hereby GRANTED.

A new Notice to File Missing Parts of Nonprovisional Application is enclosed with this decision setting forth a response period of two months from the date of the notice.

The Office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day
(703) 308-3640.

Doshie Day

Doshie E. Day
Program Management Assistant
Office initial Patent Examination

2 Enclosures

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 Virginia Road, P.O. Box 9133
Concord, MA 01742-9133

Telephone: (978) 341-0036 Facsimile: (978) 341-0136

FACSIMILE COVER SHEET

Examiner: Not Assigned **Group:** 3727

Date: August 26, 2003

Client Code: 0050.2002-000

OFFICIAL

Facsimile No.: (703) 872-9306

From: Darrell Wong, Esq.

Subject:

Paper: Petition to Withdraw Holding of Abandonment For Failure to Respond to a Notice to File Missing Parts

Docket No.: 0050.2002-000

Applicants: Jung-Hoon Chun, Richard F. Foulke, Juan C. Rocha and Nannaji Saka

Serial No.: 10/236,061

Filing Date: September 5, 2002

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AUG 2 6 2003
GROUP 3700

Number of pages including this cover sheet: 29

Please confirm receipt of facsimile: Yes X No ___

Comments:

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JMS/DLW/cts
08/19/2003

PATENT APPLICATION
Docket No.: 0050.2002-000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Jung-Hoon Chun, Richard F. Foulke, Juan C. Rocha and Nannaji Saka

Application No.: 10/236,061 Group Art Unit: 3727

Filed: September 5, 2002 Examiner: Not assigned

Confirmation No.: 2845

For: APPARATUS AND PROCESS FOR MANUFACTURING SOLDER BALLS

CERTIFICATE OF MAILING OR TRANSMISSION
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or is being facsimile transmitted to the United States Patent and Trademark Office on:
8-26-03 Jean A. White
Date Signature
Jean A. White
Typed or printed name of person signing certificate

OFFICIAL

PETITION TO WITHDRAW HOLDING OF ABANDONMENT
FOR FAILURE TO RESPOND TO A NOTICE TO FILE MISSING PARTS

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

FAX RECEIVED
AUG 2 6 2003
GROUP 3700

Sir:

Applicants thank Mr. Williams from the Office of Initial Patent Examination (OIPE) for faxing on August 5, 2003, upon request, a copy of the outstanding Notice to File Missing Parts and Filing Receipt. Although a Notice of Abandonment in the above-referenced patent application has not yet been received, Applicants respectfully request withdrawal of any holding of abandonment in view of the fact that a Notice to File Missing Parts was not received in this office.

A Notice to File Missing Parts and Filing Receipt were purportedly mailed from the U.S. Patent and Trademark Office on October 7, 2002, setting a two-month period for reply. Thus, the due date for a response was on December 7, 2003, and on May 7, 2003 with extensions of time. The undersigned states that the Notice to File Missing Parts was not received by the undersigned prior to August 5, 2003 and attests to the fact that a search of the mail log and docket records indicates that the Notice to File Missing Parts was not received. A copy of the mail log from October 7, 2002 through November 7, 2002, where the non-received Notice to File Missing Parts would have been entered had it been received in accordance with a mailing date of October 7, 2002, is attached as Exhibit 1. Client docket numbers and comments in this mail log have been redacted for purposes of client confidentiality.

In consideration of the above statement, it is respectfully requested that the holding of abandonment be withdrawn, that the outstanding Notice to File Missing Parts be reissued, and that the period for response be restarted.

Please charge Deposit Account No. 08-0380 for any fees that may be due in this matter. One additional copy of this petition is enclosed for accounting purposes.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By_____

Darrell L. Wong
Registration No. 36,725
Telephone: (978) 341-0036
Facsimile: (978) 341-0136

OFFICIAL

Concord, MA 01742-9133
Date: 8/26/2003

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U.S. PTO MAIL RECEIVED BY HBS&R

Today's Date	Application/Patent/ Opposition/ Interference No.	Date Mailed From PTO	Docket No.	Comment
10/07/02 NMC	10/053,862	10/03		
	09/791,502	10/04		
	09/702,298	10/03		
	09/778,655	10/02		
	09/591,307	10/02		
	09/848,781	10/02		
	09/891,139	10/02		
	10/151,467	10/02		
	09/963,913	10/01		
	09/644,105	10/03		
	09/649,186	10/02		
	10/151,467	10/02		
	09/952,480	9/26		
	09/965,662	9/19		
	09/975,553	10/2		
	09/315,196	10/2		
	09/332,847	10/02		
	09/263,358	10/03		
	08/961,744	10/1		
	08/801,411	10/2		
	10/234,652	10/3		
	09/806,267	9/26		
	09/871,610	10/03		
	09/634,320	10/04		
	09/773,276	10/03		

Received from < > at 8/26/03 12:34:41 PM [Eastern Daylight Time]

U.S. PTO MAIL RECEIVED BY HBS&R

Today's Date	Application/Patent/ Opposition/ Interference No.	Date Mailed From PTO	Docket No.	Comment
10/07/02 NMC (CONT)	09/474,630	10/04		EF
	09/466,970	10/04		
	09/878,155	10/02		
	10/234,652	10/03		
	10/238,842	10/04		
	10/228,933	10/02		
	10/234,654	10/02		
	08/147,928	10/02		
	09/651,062	2/19/02 (???? THAT'S ODD.)		
	09/912,263	10/02		
	09/821,832	10/02		
	10/200,574	9/4		
	09/596,425	10/02		
	10/238,841	10/02		
	09/841,179	10/02		
	09/501,934	1733.1055-000		
	09/862,339	9/26		
	09/390,551	9/26		
	09/687,477	9/26		
	09/836,373	10/02		
	10/234,033	10/01		
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	10/236,064	10/04		
	09/706,537	9/26		
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10/07 NMC (CONT)	10/237,549	10/03		
	09/687,373	9/26		
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	76/050,820	09/25		
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	09/491,912	10/1		
	09/053,107	10/01		
	09/834,999	10/01		
	75/167,540	10/02		
	76/385,712	10/02		
	76/004,648	10/3		
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	09/176,882	10/02		
	09/194,144	10/01		
	10/013,046	10/03		
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	60/400,664	10/04		
	10/232,394	10/02		
	10/237,449	10/04		
	60/410,679	10/04		
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	10/102,620	10/02		
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	10/176,091	10/02		
	60/297,144	10/1		
	60/381,835	10/01		
	09/665,347	10/3		
	09/723,594	10/02		
	60/410,727	10/04		
	09/603,713	10/04		
	09/468,041	10/03		
	10/157,000	10/04		
	10/216,492	10/03		
	10/235,438	10/04		
	10/173,570	10/04		
	10/198,845	10/03		
10/08/02 NMC	08/406,522	10/02		
	09/885,524	10/03		
10/09/02 M	76/414,155	10/07/02		
10/10/02 NMC	10/090,119	10/7		
	09/651,062	10/4		
	09/765,081	10/7		
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10/10/02 NMC (CONT)	10/212,365	10/7		
	10/081,035	10/4		
	10/134,296	10/4		
	10/135,185	10/4		
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	10/125,693	10/4		
	07/058,389	10/8		
	08/853,630	10/04		
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	07/499,793 08/046,693 08/421,791	9/25		
	76/452,505	10/5		
	10/011,450	10/3		
	07/177,763 07/159,887 07/308,251 08/040,631 08/584,226	9/25		
	09/594,112	10/8		
	09/237,334	10/8		
	09/364,245	10/8		
	09/457,604	10/8		
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	08/963,656	10/08/02		
	6,399,102	10/08/02		
	6,402,512	10/08/02		
	09/429,999	09/30/02		
	09/503,632	10/03/02		
	10/166,562	10/08/02		
	10/254,828	10/08/02		
	09/248,525	10/08/02		
	09/838,551	10/03/02		
	09/470,105	10/08/02		
	09/161,802	09/11/02		
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	10/027,212	10/03/02		
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	10/097,187	10/03/02		
	10/040,277	10/03/02		
	10/016,902	10/03/02		
	10/094,686	10/03/02		
	60/412,056	10/08/02		
	10/197,623	10/08/02		
	10/166,581	10/08/02		
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	60/411,743	10/08/02		
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	10/242,075	10/08/02		
	60/412,057	10/08/02		
	60/366,487	10/08/02		
	60/366,440	10/08/02		
	60/412,060	10/08/02		
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	09/906,025	10/11/02		
	09/546,347	10/09/02		
	09/809,725	10/09/02		
	10/062,303	10/11/02		
	09/862,989	10/10/02		
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	09/594,918	10/08/02		
	09/457,604	10/08/02		
	09/364,245	10/08/02		
	09/594,112	10/08/02		
	09/309,070	10/08/02		
	08/707,158	10/09/02		
	09/775,674	10/03/02		
	09/491,009	10/03/02		
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	09/834,181	10/03/02		
	09/170,402	10/03/02		
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	09/950,270	10/11/02		
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	09/497,625	09/24/02		
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	60/287,425	10/09/02		
	60/331,740	10/09/02		
	60/302,717	10/09/02		
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	60/385,429	10/08/02		
	10/125,690	10/08/02		
	09/848,766	10/10/02		
	09/780,028	10/10/02		
	60/380,990	10/10/02		
	60/411,561	10/07/02		
	10/217,865	10/10/02		
	60/411,686	10/10/02		
	10/178,902	10/10/02		
	60/409,090	10/10/02		
	60/385,931	10/10/02		
	60/412,461	10/09/02		
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	10/233,371	10/09/02		
	10/235,680	10/09/02		
	60/366,479	10/09/02		
	10/173,551	10/09/02		
	60/366,354	10/09/02		
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	10/169,297	10/11/02		
10/16/02 NMC	08/716,409	10/08		
	09/713,784	10/11		
10/17/02 M	09/810,419	10/11/02		
	09/879,859	10/08/02		
	09/930,551	10/15/02		
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10/18/02 GJJ	09/334,575	10/15/02		
	09/264,102	10/15/02		
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	10/083,019	10/10/02		
	09/854,854	10/11/02		
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	09/665,253	10/15/02		
	60/359,466	10/09/02		
	60/412,992	10/15/02		
	09/723,667	10/15/02		
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10/18/02 GJJ	09/706,537	10/15/02		
10/18/02 GJJ (FAX)PTO	09/474,523	10/17/02		
10/21/02 NMC	09/863,029	10/16		
	10/246,805	10/16		
	09/638,914	10/15		
	09/654,948	10/18		
	10/032,431	10/18		
	09/537,926	10/16		
	09/148,823	10/18		
	09/604,608	10/17		
	09/488,129	10/15		
	10/066,305	10/15		
	09/687,477	10/21		
	09/862,339	10/21		
	09/806,267	10/21		
	09/033,268	10/16		
	10/094,401	10/16		
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	10/247,443	10/16		
	60/413,514	10/16		
	60/413,115	10/16		
10/22/02 M	10/247,805	10/17/02		
	09/317,746	10/17/02		
	09/669,930	10/17/02		
	09/901,206	10/18/02		
	10/033,195	10/18/02		
	09/817,781	10/10/02		
	09/815,566	10/10/02		
	09/783,709	10/10/02		
	09/829,016	10/10/02		
	10/090,418	10/10/02		
	09/827,807	10/10/02		
	09/961,848	10/10/02		
	09/828,744	10/10/02		
	09/761,534	10/10/02		
	10/050,691	10/10/02		
	10/014,534	10/10/02		
	08/875,849	10/10/02		
	60/416,502	10/18/02		
	10/165,852	10/17/02		
	10/184,037	10/17/02		
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	10/044,534	10/08/02		
	10/043,450	10/07/02		
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	10/027,212	10/18/02		
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	09/676,258	10/18/02		
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	09/839,999	10/18/02		
	09/838,657	10/17/02		
	09/845,762	10/17/02		
	08/437,306	10/18/02		
10/23/02 M	09/644,631	10/17/02		
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	10/251,686	10/17/02		
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	09/811,352	10/10/02		
10/24/02 NMC	09/425,155	10/17		
	09/847,861	10/17		
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10/24/02 NMC (CONT)	09/224,189	10/21		
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	09/615,387	10/21		
	10/247,804	10/21		
	10/247,774	10/16		
	09/834,996	10/21		
	10/244,086	10/16		
	08/675,718	10/21		
	07/845,006	10/21		
	09/068,293	10/21		
	08/682,140	10/09		
	08/196,959	10/09		
	08/045,822 08/042,235 08/720,448 08/735,963	10/09		
	09/231,759	10/18		
	09/730,466	10/18		
	07/779,890	10/21		
	08/973,563	10/09		
	08/032,415	10/9		
	08/525,854	10/21		
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	10/187,465	10/18		
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	10/145,564	10/18		
	60/271,841	10/21		
	60/414,946	10/21		
	10/152,326	10/21		
	10/161,557	10/21		
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	60/415,087	10/22/02		
	09/607,883	10/22/02		
	10/157,252	10/21/02		
	09/722,799	10/22/02		
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	09/271,596	10/22/02		
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	60/372,357	10/18/02		
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	78/036,313	10/18/02		
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	10/165,811	10/23		
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	6,294,163	10/22		
	09/483,632	10/23		
	09/724,280	10/22		
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	08/778,037	10/21		
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	09/725,338	10/24		
	08/398,987	10/4		
	08/971,938	9/30		
	08/455,188	10/25		
	08/559,442	10/16		
10/30/02 NMC	10/077,171	10/25		
	10/236,018	10/25		
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	09/240,136	10/22		
	09/021,242	10/24		
	08/790,289	10/29		
	08/690,734	10/30		
	08/815,219	10/30		
	09/721,588	10/24		
	60/415,681	10/24		
	10/187,316	10/24		
	10/173,337	10/23		
	09/801,274	10/24		
	10/097,106	10/24		
	09/665,012	10/24		
	09/515,487	10/22		
	10/118,592	10/24		
	09/565,096	10/24		
	60/415,849	10/24		
	60/415,846	10/24		
	60/414,605	10/24		
	60/406,272	10/24		
	60/414,696	10/24		
	60/414,603	10/24		
	60/397,140	10/24		
	60/411,561	10/24		
10/31/02 CEZ	09/490,424	10/24		
	09/848,294	10/24		
	09/992,850	10/24		

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Today's Date	Application/Patent/ Opposition/ Interference No.	Date Mailed From PTO	Docket No.	Comment
10/31/02 (cont)	09/866,442	10/24		
	09/801,272	10/24		
	09/328,663	10/28		
	10/132,080	10/25		
	10/125,792	10/24		
	60/332,268	10/25		
	10/147,447	10/25		
	10/147,447	10/24		
	10/147,447	10/24		
	09/342,855	10/24		
	09/085,795	10/24		
	09/400,816	10/24		
	10/167,351	10/24		
	10/177,257	10/28		
	09/738,948	10/21		
	10/116,707	10/28		
	10/118,398	10/28		
	10/207,654	10/28		
	10/090,418	10/28		
	76/275,580	10/22		
	76/354,444	10/22		
	76/165,072	10/22		
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Today's Date	Application/Patent/ Opposition/ Interference No.	Date Mailed From PTO	Docket No.	Comment
10/31/02 (cont)	6,469,002	10/22		
	10/102,606	10/22		

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Today's Date	Application/Patent/ Opposition/ Interference No.	Date Mailed From PTO	Docket No.	Comment
11/1/02 CEZ	09/731,676	10/28		
	09/902,494	10/28		
	09/848,766	10/28		
	09/774,534	10/28		
	10/252,960	10/29		
	10/260,224	10/29		
	10/262,643	10/29		
	09/699,997	10/29		
	09/810,434	10/29		
	09/627,888	10/28		
	------	10/29		
	------	10/29		
	------	10/29		
	------	10/29		
	10/095,126	10/29		
	10/166,576	10/29		
	10/187,468	10/29		
	10/170,015	10/29		
	10/136,849	10/29		
	10/125,778	10/28		
	76/271,990	10/29		
	09/035,188	10/29		
	6,473,093	10/29		
	6,473,511	10/29		
	D464,971	10/29		
	6,473,545	10/29		
	09/411,194	10/28		
	08/446,674	10/29		

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Today's Date	Application/Patent/ Opposition/ Interference No.	Date Mailed From PTO	Docket No.	Comment
	76/198,762	10/29/02		
11/04/02 NMC	09/524,666	11/01		
	09/470,105	11/01		
	09/356,751	10/28		
	09/611,167	11/01		
	08/658,469	10/30		
	09/394,233	11/01		
	09/290,286	11/01		
	09/552,196	10/30		
	09/477,022	10/31		
	10/266,076	11/01		
	10/264,347	10/30		
	09/835,087	10/31		
	10/178,180	10/30		
	09/782,709	10/30		
	09/540,053	11/01		
	10/034,871	10/17		
	08/453,347	10/29		
	09/607,161	10/30		
	09/678,724	10/22		
	09/088,527	10/17		
	10/197,227	10/30		
	10/054,678	10/31		
	10/155,879	10/30		
	10/196,569	10/30		
	60/416,501	10/30		
	09/501,636	10/30		
	10/209,517	10/30		
	10/209,192	11/01		
	60/406,405	10/24		

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Today's Date	Application/Patent/ Opposition/ Interference No.	Date Mailed From PTO	Docket No.	Comment
11/04/02 NMC (CONT)	09/524,310	10/30		
	10/127,345	10/30		
	10/143,729	10/30		
	10/209,654	11/01		
	60/416,490	11/01		
	09/721,454	10/31		
	10/095,109	10/29		
	10/107,604	10/29		
	60/380,894	10/29		
	60/380,909	10/29		
	60/240,004	10/29		
	60/380,878	10/29		
	60/380,880	10/29		
	60/378,153	10/29		
	60/230,685	10/29		
	60/381,031	10/29		
	75/847,431	10/30		
	10/095,109	10/29		
	10/223,811	10/31		
	60/310,055	10/29		
	10/180,950	10/29		
	60/381,017	10/29		
	10/030,727	10/24		
	10/125,772	10/28		
	60/380,908	10/31		
	60/380,905	10/31		
	76/124,786	10/31		
	09/211,940	10/29		
	10/142,728	10/29		
	90/006,418	10/30		

U.S. PTO MAIL RECEIVED BY HBS&R

Today's Date	Application/Patent/ Opposition/ Interference No.	Date Mailed From PTO	Docket No.	Comment
11/5/02 CEZ	08/455,188	10/28		
	09/694,069	10/31		
11/06/02	60/380,910	10/29		
11/07/02 GJJ	09/982,719	11/05		
	09/874,861	11/05		
	08,973,563	11/01		
	07/263,039	11/01		
	08/741,671	11/04		
	09/500,407	11/04		
	09/614,326	11/04		
	09/652,916	11/04		
	09/792,410	11/04		
1108/02 M	09/997,621	11/01/02		
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	09/747,508	11/04/02		
	76/315,713	11/05/02		
	09/651,135	11/04/02		
	09/847,065	11/05/02		
	09/323,430	11/05/02		
	10/017,362	11/05/02		
	09/834,050	11/05/02		
	09/497,627	11/05/02		
	60/381,125	11/04/02		
	09/537,630	11/05/02		
	09/484,159	11/04/02		
	75/891/803	10/31/02		
	60/417,683	11/04/02		
	60/417,682	11/04/02		
	10/200,574	11/04/02		
	29/160,994	11/05/02		

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January 15, 2004

Darrell L. Wong
Hamilton, Brook, Smith & Reynolds
530 Virginia RD., P.O. Box 9133
Concord, MA 01742-9133

In re application of:
Jung-Hoon Chun, etal DECISION ON PETITION
Serial No: 10/236,061
Filed: September 5, 2002
For: APPARATUS AND PROCESS FOR MANUFACTUREING SOLDER BALLS

This is a decision on the petition received by fax on August 26, 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Nonprovisional Application on October 7, 2002. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned December 10, 2002

On August 26, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney never received the Notice to File Missing Parts of Nonprovisional Application mailed on October 7, 2002.

The petition is hereby GRANTED.

A new Notice to File Missing Parts of Nonprovisional Application is enclosed with this decision setting forth a response period of two months from the date of the notice.

The Office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day
(703) 308-3640.

Doshie Day

Doshie E. Day
Program Management Assistant
Office initial Patent Examination

2 Enclosures

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AUG 17 2004

TECHNOLOGY CENTER 3600

Thomas Spinelli
2 Sipala Ct.
E. Northport, NY 11731

In re Application of
Jahangir S. Rastegar
Application No. 10/236,063
Filed: September 4, 2002
For: DEPLOYABLE BULLETS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on June 1, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on September 2, 2003 and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

SNM/vdb: 8/11/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Patent No. 7,070,984	:	
Issued: July 4, 2006	:	
Application No. 10/236,078	:	ON PETITION
Filed: September 4, 2002	:	
Attorney Docket No. LIDAG.001A1C1	:	

This is a decision on the petition under 37 CFR 1.182, filed May 2, 2008, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

Additionally, the petition fee of $400.00 has been charged to petitioner's deposit account as authorized on May 2, 2008.

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this matter may be directed to Joan Olszewski at 571-272-7751. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703) 308-9250, ext. 129.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, P/ODM, South Tower 8C23 (FAX 571-270-9753)

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ADVANCED MICRO DEVICES, INC.
C/O VEDDER PRICE P.C.
222 N.LASALLE STREET
CHICAGO, IL 60601

Mail Date: 06/25/2010

Applicant	: Laurent Lefebvre	: DECISION ON REQUEST FOR
Patent Number	: 7636095	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/236,089	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/06/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **603** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ALTERA LAW GROUP LLC
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SUITE 100
MINNEAPOLIS, MN 55344-7704

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OFFICE OF PETITIONS
ON PETITION

In re Application of :
Gregory J. Engel et al :
Application No. 10/236,094 :
Filed: September 6, 2002 :
Attorney Docket No. TENNANT-416

This is a decision on the petition, filed February 27, 2004, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 23, 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 Irvin Dingle at (703) 306-5684.

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1744 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS
ON PETITION

In re Application of
Gregory J. Engel et al
Application No. 10/236,094
Filed: September 6, 2002
Attorney Docket No. TENNANT-416

This is a decision on the petition, filed February 27, 2004, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 23, 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 Irvin Dingle at (703) 306-5684.

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1744 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of :
Gregory J. Engel et al :
Application No. 10/236,095 : ON PETITION
Filed: September 6, 2002 :
Attorney Docket No. TENNANT-402

This is a decision on the petition, filed February 27, 2004, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 13, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1744 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

In re Application of :
Gregory J. Engel et al :
Application No. 10/236,095 :
Filed: September 6, 2002 :
Attorney Docket No. TENNANT-402 :

ON PETITION

This is a decision on the petition, filed April 22, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 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 1744 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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MAY 14 2003

EZRA SUTTON, P.A.
PLAZA 9
900 ROUTE 9
WOODBRIDGE NJ 07095

In re Application of	:
Edward L. Tobinick	:
Serial No.: 10/236,097	: PETITION TO MAKE SPECIAL
Filed: September 6, 2002	:
Attorney Docket No.: TOBINICK3.0-014	:

This is in response to applicants' petition filed October 21, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

The application will be forwarded an the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
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OFFICE OF PETITIONS

In re Application of Alsobrook, Burgess, Edinger, Gerlach, Lepley, Patturajan, Pena, Rieger, Shimkets, Spytek, Taupier, and Zhong Application No. 10/236,104 Filed: 6 September, 2002 Atty Dkt No. 21402-442B (CURA-742B)	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition filed under 37 CFR 1.47(a) on 27 January, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 6 September, 2002, without an executed oath or declaration. Accordingly, on 27 September, 2002, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application requiring a signed oath or declaration, a surcharge for its late filing, and a CRF and paper copy of the Sequence Listing as well as an amendment directing its entry. In response, on 27 January, 2003, petitioners filed, *inter alia*, the present petition and petition fee, a request and payment for a two (2) month extension of the time to response to the Notice, and a declaration naming John Alsobrook II, Catherine Burgess, Shlomit Edinger, Valerie Gerlach, Denise Lepley, Meera Patturajan, Carol Pena, Daniel

Rieger, Richard Shimkets, Kimberly Spytek, Raymond J. Taupier, Jr., and Mei Zhong as joint inventors and signed by all joint inventors except joint inventor Lepley on behalf of themselves and joint inventor Lepley. Petitioners assert that Dr. Lepley refused to sign the declaration without compensation.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1). In regards to item (1), petitioners have not shown proof that a copy of the application (specification, including claims, drawings, if any, and the Declaration) was sent or given to the non-signing inventor (or her counsel) for review.[1] Merely contacting the inventor without sending or presenting the application papers is not sufficient.

Petitioners may show proof by providing a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign can be shown, petitioners must show that the application as filed was sent or given to the non-signing inventor for review.[2] If there is a written refusal, a copy of that written refusal should be provided with any renewed application. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

Additionally, it is noted that the last known address provided

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[1] MPEP 409.03(d).

[2] Id.

for the non-signing inventor appears to be a business address. Ordinarily, the last known address will be the last known residence of the non-signing inventor, and should be the last known address at which the inventor customarily receives mail.[3] Petitioners should verify the last known address for the non-signing inventor.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

OR (after 1 May, 2003)[4]

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[3] Id.

[4] Effective 1 May, 2003, the U.S. Patent and Trademark Office is changing its address for some mail in preparation for its move to new office space in Alexandria, Virginia beginning at the end of 2003. See 68 Fed. Reg. 14332 (March 25, 2003).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 10

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

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JUL 2 9 2003

OFFICE OF PETITIONS

In re Application of	
Alsobrook, Burgess, Edinger, Gerlach,	
Lepley, Patturajan, Pena,	DECISION ACCORDING STATUS
Rieger, Shimkets, Spytek, Taupier,	UNDER 37 CFR 1.47(a)
and Zhong	
Application No. 10/236,104	
Filed: 6 September, 2002	
Atty Dkt No. 21402-442B (CURA-742B)	

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 16 July, 2003.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor cannot be reached. Specifically, petitioners have shown that a copy of the application sent to the non-signing inventors' last known address was returned as unclaimed by the United States Post Office. Additionally, the non-signing inventor had previously sent a letter to counsel stating that she would not sign any documents without financial compensation.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition filed on 16 July, 2003, not the declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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AUG 05 2009

OFFICE OF PETITIONS

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Application of :
Straus :
Application No. 10/236,107 : ON APPLICATION FOR
Filed: September 6, 2002 : PATENT TERM ADJUSTMENT
Atty Docket No. 50050/003002 :
Title: RAPID DETECTION OF :
REPLICATING CELLS :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705," filed February 3, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is five hundred and twenty-two (522) days, not three hundred and twenty (320) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As

such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, 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].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

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[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.

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 regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

MAILED

MAY 18 2010

OFFICE OF PETITIONS

In re Patent No. 7,582,415	:	DECISION ON REQUEST
Straus	:	FOR
Issue Date: September 1, 2009	:	RECONSIDERATION OF
Application No. 10/236,107	:	PATENT TERM ADJUSTMENT
Filed: September 6, 2002	:	and
Atty Docket No. 50684/002002	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 16, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred and twelve (612) 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 six hundred and eleven (611) days is **GRANTED to the extent indicated herein.**

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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 September 7, 2005 and ends on May 29, 2006, the day before the first RCE was filed, which amounts to 265 (not 266) days. See U.S.C. 154(b)(1)(B)(i). Patentee recognizes that 64 days of "B" delay overlap with the "A" delay. As such, the

patent term adjustment is increased by 201 (265 - 64) days to 611, not 612 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 **six hundred and eleven (611) days**.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,582,415 B2

DATED : **September 1, 2009** **DRAFT**

INVENTOR(S) : Straus

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 410 days

Delete the phrase "by 410 days" and insert – by 611 days--

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CORNING INCORPORATED
SP-TI-3-1
CORNING, NY 14831

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OFFICE OF PETITIONS

In re Application of

Webb, et al.

Application No. 10/236,120

Filed: September 6, 2002

Attorney Docket No. SP01-259

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 2, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response to the final Office action mailed June 8, 2006. The final Office action set a shortened statutory period for reply of three months from its mailing date. A response was filed on July 24, 2006. An Advisory Action mailed August 10, 2006, advised that the response of July 24, 2006, failed to place the application in condition for allowance. Another response was filed on December 8, 2006, with a request for extension of time within the third month. There is no record of an Advisory Action being issued in response to the December 8, 2006, amendment. Notice of Abandonment was mailed on December 29, 2006.

The Request for Continued Examination and amendment filed April 2, 2007,are noted.

The application file is being forwarded to Technology Center 1700, GAU 1744 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

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OFFICE OF PETITIONS

In re Application of	:	
Richter, et al.	:	
Filed: September 6, 2002	:	ON PETITION
Application No. 10/236,144	:	
Attorney Docket No.: 4303-4004US1	:	

This is a decision on the petition under 37 CFR 1.182, filed August 7, 2006, to change the order of inventors in the above-identified application.

The current Office procedure for changing the order of inventors named in an application involves submitting a petition under 37 CFR 1.182 signed by either the attorney or agent of record or all of the applicants designating the desired changed[1].

The instant petition has met the criteria for changing the order of named inventors. Accordingly, the petition is **GRANTED**.

The order of inventors will be changed as follows:

1. J. Richter
2. G. Pinchasik

This application is being forwarded to the Technology Center 3700 for further processing.

Telephone inquiries pertaining to this decision should be directed to the undersigned at (574) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

[1] *See, also,* MPEP 605.04(f) wherein applicants are strongly encouraged to submit an application data sheet showing the new order of inventor names to ensure appropriate printing of the inventor names in any patent to issue.

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ALEXANDRIA, VA 22313-1450
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INVITROGEN CORPORATION
C/O INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of:
BOZDIN, Leon, J., et al.
Application No.: 10/236,169
Filing Date: September 05, 2002
Atty Docket No.: IVGN 404.1 CON(L)

DECISION ON PETITION
(37 CFR 1.137(b))

This is a decision on the petition under 37 CFR 1.137(b), filed August 09, 2007, to revive the above-identified application.

The petition is **DISMISSED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 08, 2007, which set a three (3) month period for reply. No response was filed and no extensions of time were obtained under the provisions of 37 CFR 1.136(a).[1] Accordingly, by operation of law, the above-identified application became abandoned on May 08, 2007.

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply, unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before June 8, 1995.

The instant petition does not satisfy requirement (1) above in that the petition is not accompanied by a response to the non-final Office action mailed February 08, 2007 (i.e., amendments, request for reconsideration with arguments, etc.).

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)" and include the additional materials required for a grantable petition.

[1] The present petition was accompanied by a three-month extension fee. However, an extension of time under 37 CFR 1.136(a) 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 extension fee submitted with the present petition was filed after the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3296

Richard M. Ross
Attorney Advisor

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

INVITROGEN CORPORATION
C/O INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS MN 55402

In re Application of:	:	
BOZDIN, Leon, J., et al.	:	DECISION ON RENEWED
Application No.: 10/236,169	:	PETITION
Filing Date: September 05, 2002	:	(37 CFR 1.137(b))
Atty Docket No.: IVGN 404.1 CON(L)	:	

This is a decision on the "Renewed Petition Under 37 CFR 1.137(b)" filed September 18, 2007.

The renewed petition is **GRANTED**.

In a decision mailed herein on August 27, 2007, applicants' original petition for revival under 37 CFR 1.137(b) was dismissed without prejudice for failure to satisfy all the requirements of a grantable petition. Specifically, applicants had failed to provide the "required reply" in the form of an acceptable response to the non-final Office action mailed February 08, 2007.

The renewed petition filed September 18, 2007 indicates that, on August 08, 2007, applicants filed a continuation of the present application, U.S. application number 11/835,982. The filing of the continuing application under 35 U.S.C. 111(a) is accepted as the required reply under 37 CFR 1.137(b). See MPEP section 711.03(c)II(A). Applicants have therefore satisfied the remaining requirement for a grantable petition for revival under 37 CFR 1.137(b). Accordingly, the reply to the non-final Office action (in the form of the continuation application) is accepted as having been unintentionally delayed.

U.S. application 10/236,169 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of the continuing application (U.S. application number 11/835,982).

Any questions concerning this matter may be directed to the undersigned at (571) 272-3296

Richard M. Ross
Attorney Advisor

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 6

DAVID W. HIGHET, VP AND CHIEF IP COUNSEL
BECTON, DICKINSON AND COMPANY
1 BECTON DRIVE, MC 110
FRANKLIN LAKES, NJ 07417-1880

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Vu Phan Phan	:
Application No. 10/236,192	:
Filed: September 6, 2002	:
Attorney Docket No. P-5548	:

This is a decision on the petition under 37 CFR 1.137(b), filed September 3, 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 11, 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 12, 2002.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

Mitchell P. Brook, Esq.
Luce Forward Hamilton & Scripps LLP
Suite 200
11988 El Camino Real
San Diego CA 92130

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MAR 1 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Santhoff and Arrieta	:	
Application No.: 10/236,213	:	
Filed: September 6, 2002	:	DECISION ACCORDING
Attorney Docket No: 30287-13	:	STATUS UNDER
For: USE of THIRD PARTY ULTRA-WIDEBAND	:	RULE 47(a)
DEVICES TO ESTABLISH GEO-POSITIONAL DATA	:	

This is in response to the petition under 37 CFR 1.47(a), filed December 10, 2002.

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

A "Notice to File Missing Parts of Non-Provisional Application" ("Notice") was mailed to petitioner on October 10, 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 $65.00 surcharge was also due because a proper oath or declaration was not timely filed. The Notice set forth a period of reply of two months from 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, petitioner filed the instant petition along with a declaration executed by inventor Santhoff and evidentiary documents showing that inventor Arrieta was presented with the application papers, but has constructively refused to join the application.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Petitioner is advised that the undersigned is not the examiner for the above-cited patent application as is indicated on several of the documents filed by petitioner. The undersigned is a Petitions Attorney and does not engage in any examining of applications; there has not been an examiner assigned to the above-cited application to date.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6723103
Issue Date: April 20,2004
Application No. 10236219
Filed: September 6,2002
Attorney Docket No. 50243-0001

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed April 19,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 19,2010 .
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.

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)
6723103	2004-04-20	10236219	2002-09-06	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/elizabethannedwards/	Date (YYYY-MM-DD)	2010-04-19
Name	Elizabeth ann Edwards		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Paper 5

Robert A. Parsons
PARSONS & GOLTRY
Suite 260
340 East Palm Lane
Phoenix, AZ 85004

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MAR 2 6 2004

OFFICE OF PETITIONS

In re Application of
Blair et al.
Application No. 10/236,234
Filed: September 6, 2002
Attorney Docket No. 4189-PA8
Title of Invention: BI-DIRECTIONAL OPTICAL/ELECTRICAL TRANSCEIVER MODULE

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed March 15, 2004, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to File Corrected Application Papers which was mailed on September 30, 2002. The Notice to File Corrected Application Papers set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on December 1, 2002. A Notice of Abandonment was mailed on February 9, 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 substitute drawings.

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
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Alexandria, VA 22313-1450
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ICE MILLER LLP
ONE AMERICAN SQUARE, SUITE 3100
INDIANAPOLIS IN 46282-0200

MAILED

MAY 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Davidson et al.	:	DECISION ON APPLICATION
Application No. 10/236,269	:	FOR PATENT TERM ADJUSTMENT
Filed: September 6, 2002	:	
Docket No. P00716-US-01	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT" filed December 2, 2008. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 883 days to 975 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 873 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 2, 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 883 days. On December 2, 2008, applicants timely submitted the instant application for patent term adjustment.[1]

[1] Office finance records indicate that the issue fee payment was received on December 2, 2008.

Applicants contend that they should be assessed a period of reduction of 10 days pursuant to 37 CFR 1.704(b).[2] Applicants assert that they filed a reply on August 18, 2008, three months and 10 days after the mailing of the nonfinal Office action on May 8, 2008.

A review of the application history confirms that applicants' characterization of the basis for and amount of the reduction of patent term pursuant to 37 CFR 1.704(b). Accordingly, a period of reduction of 10 days is being entered.

Next, applicants dispute the period of reduction of 102 days for the filing of an Information Disclosure Statement (IDS) on September 4, 2007, after a reply had been filed on May 25, 2007. Applicants contend that pursuant to 37 CFR 1.704(d), the filing of the IDS should not be considered a failure to engage in reasonable efforts to conclude prosecution of this application under 37 CFR 1.704(c)(8).

Pursuant to 37 CFR 1.704(c)(8), the submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, is a failure to engage in reasonable efforts to conclude prosecution. It is undisputed that after filing a response on May 25, 2007, applicants filed an IDS on September 4, 2007. The record does not support a conclusion that the IDS was expressly requested by the examiner. Further, a

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[2] 37 CFR 1.704(b) states:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

review of the IDS filed September 4, 2007, reveals that it did not include the proper § 1.704(d) statement.[3] Specifically, the IDS was accompanied by the following statement:

> The undersigned certifies that each item of information contained in the Information Disclosure Statement was cited in **a** 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 **three months** prior to the filing of this Information Disclosure Statement.

Emphasis added.

However, the statement required under 37 CFR 1.704(d) must state that:

> [E]ach 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.

Emphasis added.

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[3] Applicants are reminded that 37 CFR 1.704(d) was revised, effective May 24, 2004, as follows:

> 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.

This revision requires that the statement include the language "each item of information contained in the information disclosure statement was first cited ..." for the exception to apply. See 69 FR 21704, Apr. 22, 2004.

The statement accompanying the IDS filed September 4, 2007, does not contain the language required by 37 CFR 1.704(d). Accordingly, it is concluded that the period of reduction of 102 days is correct and will not be changed.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance is 873 days (1119 days of Office delay - 246 days of applicant delay).

The Office acknowledges receipt of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Monday
Date: 5/11/2009

PALM INTRANET

Time: 11:47:07

PTA Calculations for Application: 10/236269			
Application Filing Date:	09/06/2002	PTO Delay (PTO):	1119
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	236
Post-Issue Petitions:	0	Total PTA (days):	873
PTO Delay Adjustment:	-10		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
64	05/11/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		10	
49	09/02/2008	MAIL NOTICE OF ALLOWANCE			
48	08/30/2008	ISSUE REVISION COMPLETED			
45	08/18/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
44	08/18/2008	DOCUMENT VERIFICATION			
43	08/18/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
42	08/18/2008	EXAMINER'S AMENDMENT COMMUNICATION			
41	08/18/2008	NOTICE OF ALLOWABILITY			
40	05/08/2008	MAIL NON-FINAL REJECTION	226		36
39	05/07/2008	NON-FINAL REJECTION			
38	09/04/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
37	03/10/2008	DATE FORWARDED TO EXAMINER			
36	05/25/2007	RESPONSE AFTER NON-FINAL ACTION		94	30
35	05/25/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	09/04/2007	REFERENCE CAPTURE ON IDS			
33	09/04/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		102	36
32	09/04/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	11/20/2006	MAIL NON-FINAL REJECTION	25		25
29	11/16/2006	NON-FINAL REJECTION			
28	08/21/2006	DATE FORWARDED TO EXAMINER			
27	08/02/2006	SUPPLEMENTAL RESPONSE		37	25
26	07/07/2006	DATE FORWARDED TO EXAMINER			

25	06/26/2006	RESPONSE TO ELECTION / RESTRICTION FILED		3	23
24	06/26/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	03/23/2006	MAIL RESTRICTION REQUIREMENT	868		-1
22	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
21	03/20/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
20	10/18/2005	CASE DOCKETED TO EXAMINER IN GAU			
19	09/30/2005	MISCELLANEOUS INCOMING LETTER			
18	07/15/2005	CASE DOCKETED TO EXAMINER IN GAU			
17	02/17/2005	CORRESPONDENCE ADDRESS CHANGE			
16	10/01/2004	MISCELLANEOUS INCOMING LETTER			
15.7	11/27/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	11/27/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	09/24/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	12/23/2002	REFERENCE CAPTURE ON IDS			
12	06/25/2003	REFERENCE CAPTURE ON IDS			
11	11/27/2002	REFERENCE CAPTURE ON IDS			
10	10/30/2003	CASE DOCKETED TO EXAMINER IN GAU			
9.7	06/25/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	06/25/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8.7	12/23/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	12/23/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	12/19/2002	CASE DOCKETED TO EXAMINER IN GAU			
5	09/20/2002	APPLICATION DISPATCHED FROM OIPE			
4	09/19/2002	APPLICATION IS NOW COMPLETE			
3	09/17/2002	CLEARED BY L&R (LARS)			
2	09/14/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/06/2002	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APR -2 2003

Paper No. 6

In re Application of
Steven Prescott *et al*
Application No. 10/236,272
Filed: September 6, 2002
Attorney Docket No. TRANS1
(015137.000004)

: DECISION ON PETITION

This is a decision on the petition filed on March 19, 2003 by which petitioners request that this application be accorded special status for advanced examination out of turn. The $130.00 petition fee has been received.

The petition is granted.

Petitioners base the request for special status on the practice set forth at MPEP § 708.02(II), Infringement. A review of the petition shows that petitioners have satisfied all of the requirements set forth in MPEP § 708.02(II) for a petition to make special on the grounds asserted.

Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The application is being forwarded to the Supervisory Patent Examiner of Patent Examining Art Unit 3722, who will forward the application to the examiner for action consistent with this Decision.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner
Patent Examining Groups 3710 and 3720

Troutman Sanders LLP
Bank Of America Plaza, Suite 5200
600 Peachtree Street , NE
Atlanta, GA 30308-2216

SPE: M. Smith

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/10/07

TO SPE OF : ART UNIT 2823

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/236,282 Patent No.: 6987291

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: IDS of 7/28/04 was not printed but should have been

SPE

2823
Art Unit

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United States Patent and Trademark Office
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CINGULAR WIRELESS LLC
5565 GLENRIDGE CONN:, #1725A
C/O LINDA GILES, PATENT MANAGER
ATLANTA, GA 30342

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OFFICE OF PETITIONS

In re Application of :
Roger C. Mahn :
Application No. 10/236,292 : ON PETITION
Filed: September 4, 2002 :
Attorney Docket No. C01-0041

This is a decision on the petition under 37 CFR 1.137(b), filed January 3, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed February 22, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No response was received within the allowable period, and the application became abandoned on May 23, 2005. A Notice of Abandonment was mailed on January 3, 2006.

The amendment filed January 3, 2006, is noted.

The request for an extension of time within the third month is noted, but cannot be granted. The request was made outside the maximum statutory period set for reply to the non-final Office action. Further, the application was already in an abandoned status at the time the request for extension of time was made and the request for an extension of time was unnecessary. The amount of $1,020.00 will be refunded, in due course.

The application is being forwarded to Technology Center2600, GAU 2682 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Bradley Russell Wright
1900 Constitution Drive
St. Leonard, MD 20685

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FEB 28 2005

OFFICE OF PETITIONS

In re Application of :
Bradley Russell Wright :
Application No. 10/236,314 :
Filed: September 9, 2002 : ON PETITION
Title of Invention: :
ROTATING DIVING DECOY RIG :

This is a decision on the Petition to Revive Unintentionally Abandoned Application under 37 CFR 1.137(b), filed December 10, 2004.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed April 20, 2004. The Office action set a three (3) month period for reply.

Applicant filed a response to the Office action on July 20, 2004; however, the response failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed August 20, 2004 (and re-mailed November 23, 2004).

Accordingly, the application became abandoned on October 21, 2004. A Notice of Abandonment was mailed on November 23, 2004.

With the instant petition, Applicant has filed Amendments to place the application in condition for allowance.

The petition is hereby **granted**.

This application is being referred to Technology Center 3643 for processing of the Amendments in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney/Advisor
Office of Petitions

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Portland, OR 97204-3157

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OFFICE OF PETITIONS

In re Application of	:	
Jack D. Robson, et al.	:	
Application No. 10/236,334	:	DECISION ON REQUEST
Filed: September 5, 2002	:	TO WITHDRAW
Attorney Docket No. KLR/KAR:8317.0001	:	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 24, 2006, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **APPROVED**.

A review of the file record indicates that Kevin L. Russell: (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, Kevin L. Russell may not act in a representative capacity under 37 C.F.R. § 1.34, unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named inventor or (2) the assignee of the entire interest. All future communications from the Office will continue to be directed to the first named inventor until otherwise properly notified by the applicant.

Applicant is reminded that there is no attorney of record at this time.

Applicant should also note that there is an outstanding Office action mailed January 13, 2006 that requires a reply from the 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: Amelia Au

cc: Mr. Jack D. Robson
3040 NW Underhill Place
Bend, OR 97701

Mr. Scott Friedman
Endless Pursuit
6549 NW 97th Drive
Parkland, FL 33076

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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

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JUN 2 8 2004

OFFICE OF PETITIONS

In re Application of
Swoboda et al.
Application No. 10/236,347
Filed: September 6, 2002
For: COATED PAPERBOARDS AND PAPERBOARD CONTAINERS HAVING IMPROVED TACTILE AND BULK INSULATION PROPERTIES
Attorney Docket No: 02734.0538-00000
Pub. No.: US 2003/0152724 A1
Pub. Date: August 14, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on October 8, 2003 for the above-identified application.

The request is granted-in-part.

The corrected patent application publication will be published in due course and will only include corrections for errors made by the Office.

A patent application publication is based on the application papers as originally filed, according to 37 CFR 1.215(a), which says the following, in part:

> (a) . . . The patent application publication will be based upon the application papers deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application . . . The patent application publication will not include any amendments, including preliminary amendments, unless applicant supplies a copy of the application containing the amendment pursuant to paragraph (c) of this section.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request also includes mistakes that are not the fault of the Office, which will not be corrected by a corrected publication by the Office.

---

[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).

The errors labeled (1) and (2) will be corrected as requested.

The errors labeled (3) and (4) below will not be corrected as requested by applicant.

With respect to the error labeled (3), applicant argues that claim 83, line 7 should read "0.00021 $w^{2.63}$," the claim reads "0.00021 $w^{2.63}$."

With respect to the error labeled (4), applicant argues that the claim 84, line 5 should read "0.00043 $W^{2.63}$" the claim reads "0.00043 $w^{2.63}$," however "0.00043 $W^{2.63}$" appears in claim 84, line 4 on page 162 of the application as filed.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), should be submitted via the EFS system and any question 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

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:09287

DATE : September 16, 2005

TO SPE OF : ART UNIT 1772

SUBJECT : Request for Certificate of Correction on Patent No.: 6919111

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: Harold Y. Pyon **Art Unit** 1772

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. 6,919,111 B2

DATED: July 19, 2005

INVENTORS: Dean P. SWOBODA et al.

It is hereby certified that errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 18, column 65, line 1 — "copolymers." should read --copolymers,--

Claim 18, column 65, line 2 — "carboxymethylcellulOSe," should read --carboxymethylcellulose--

Claim 60, column 66, line 50 — "claim 50." should read --claim 2.--

MAILING ADDRESS OF SENDER

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
901 New York Avenue, N.W.
Washington, D.C. 20001-4413

Patent No. 6,919,111 B2

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Paper No. 5

S.C. JOHNSON & SON, INC.
1525 HOWE STREET
RACINE WI 53403-2236

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OFFICE OF PETITIONS

In re Application of	:
Jaworski et al.	: DECISION NOTING PETITION
Application No. 10/236,364	: UNDER 37 CFR 1.47(a) MOOT
Filed: 6 September, 2002	:
Attorney Docket No. J-3463	:

This is a decision in reference to the paper styled "Conditional Petition Under 37 CFR 1.47(a)" filed on 21 October, 2002.

It is noted that the papers filed with the present petition included a declaration signed by all joint inventors as well as the legal representative (executrix) of the deceased inventor, Tor H. Petterson, in compliance, with 37 CFR 1.63.

Since the legal representative of the deceased inventor has signed the declaration, no petition under 37 CFR 1.47(a) is required. Consequently, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

The petition is **dismissed as moot**. No petition fee has been charged and none is due.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

Cameron Kerrigan
Squire, Sanders & Dempsey L.L.P.
One Maritime Plaza, Suite 300
San Francisco, CA 94111

In re Application of
Pacetti
Application No. 10/236,366
Filed: September 5, 2002
Attorney Docket No.: 50623.144
For: COATINGS FOR DRUG DELIVERY DEVICES COMPRISING MODIFIED POLY(ETHYLENE-CO-VINYL ALCOHOL)

ON PETITION

This decision is in response to the petition under 37 CFR 1.10(c), filed February 4, 2003, requesting that the above-identified application be accorded a filing date of September 5, 2002 instead of the presently according filing date of September 2, 2002.

Petitioner alleges that the application was deposited in Express Mail service on September 5, 2002. Petitioner has provided evidence to this effect, including a copy of an "Express Mail Post Office to Addressee" mailing label bearing tracking number EV177491365US (the same Express Mail number found on the itemized certificate of mailing accompanying the original application papers located in the official file) and a "date-in" of September 2, 2002. However, given September 2, 2002 was a federal holiday whereby no USPS services would have been available, petitioner has provided a copy of USPS Track & Confirm printout wherein the correct "date-in" of September 5, 2002 is set forth. Moreover, a review of the USPTO Express Mail Information Database indicates that a package bearing Express Mail tracking No. EV177491365US was accepted by the USPS on September 5, 2002 and delivered to the United States Patent and Trademark Office on September 9, 2002.

In view of the above, the petition under 37 CFR 1.10(c) is **GRANTED**.

No fee is due in connection with this matter.

This application is being forwarded to the Official of Initial Patent Examination for correction of the filing date to September 5, 2002.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

MINTZ, LEVIN, COHN,
FERRIS, GLOVSKY and POPEO, P.C.
One Financial Center
Boston, MA 02111

In re Application of
Zhong et al.
Application No.10/236,392
Filed: September 6, 2002
Attorney Docket No. 21402-442A (CURA-742A)

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition, filed January 8, 2003, under 37 CFR. §1.47(a).

The petition under 37 CFR. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on September 6, 2002, without an executed oath or declaration. Accordingly, on October 8, 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 8, 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 one (1) month extension of time was also submitted. In support of the petition, applicants submitted the declaration of David M. Wurzer, CFO of the assignee, and a copy of the Employee Confidential Information and Invention Agreement.

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 requirements (1) and (2).

As to item (1), Rule 47 applicant has failed to show that the legal representative of William Grosse refused to sign the declaration after having been presented with the application papers. Pursuant to 37 CFR 1.43 where an inventor is insane or otherwise legally incapacitated, the legal representative (guardian, conservator, etc.) of such inventor may make the necessary oath . Rule 47 applicant has failed to indicate whether there is a legal representative and if that legal representative has been contacted in an attempt to have the declaration executed. The fact that rule 47 applicant has provided a declaration signed by a purported representative of the assignee does not exempt applicant from the requirement of

presenting application papers to legal representative in the attempt to obtain the signature of the legal representative of the incapacitated, inventor. Rule 47 applicant has not provided any evidence that would suggest that Declarant Wurzer has been classified as the legal representative of inventor Grosse. It is appropriate to submit a declaration executed by the assignee where all of the inventors refuse to execute the declaration or cannot be found or reached after diligent effort. See 37 CFR 1.47(b).

Thus on renewed petition, applicant must illustrate diligent effort was used to locate a legal representative. If a legal representative is located the application papers and declaration should be submitted for execution. If it is determined there is a legal representative but legal representative can not be located, the last known address of legal representative should be presented in the declaration and signed by all of the inventors. After the legal representative has been presented with the application papers and if the legal representative refuses to execute the declaration, the declaration which has been executed by the other inventors but which leaves the non-signing legal representative's information blank would be acceptable.[1]

As to item (2), the declaration submitted is not in compliance with 37 CFR 1.64(b). Where the oath or declaration is being signed on behalf of a legally incapacitated, inventor, the oath or declaration shall state the person is a legal representative and provide the citizenship, residence, and mailing address of the legal representative.

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

[1]Where there is a legal representative, the inventor's biographical information should also be provided in a declaration.

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
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LEVITON MANUFACTURING COMPANY INCORPORATED (CDFS)
C/O CARTER, DELUCA, FARRELL & SCHMIDT, LLP
445 BROAD HOLLOW RD. STE. 420
MELVILLE NY 11747

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OFFICE OF PETITIONS

In re Application of	:
Oddsen et al.	:
Application No. 10/236,406	: DECISION ON PETITION
Filed: September 6, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1640-7 CIP	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 18, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional applications.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(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.

With regards to item (1), as required by 37 CFR 1.78(a)(2)(ii), the reference required by 35 U.S.C. 120 must be submitted during the pendency of the instant application. In this case, the instant application was abandoned on July 20, 2005. A Notice of Abandonment was mailed November 16, 2005. Petitioner may consider filing a petition to revive the above-identified application under 37 CFR 1.137(b).

Further, petitioner has not included a reference to the requested prior-filed nonprovisional applications in an amendment to the first sentence of the specification following the title, or an Application Data Sheet as provided by 37 CFR 1.78(a)(5)(iii).

Additionally, 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 § 1.78(a)(2) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

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 Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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MINTZ LEVIN COHN FERRIS GLOVSKY
AND POPEO PC
ONE FINANCIAL CENTER
BOSTON MA 02111

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OFFICE OF PETITIONS

In re Application of
Agee, et al.
Application No. 10/236,417
Filed: September 6, 2002
Docket No. 21402-442C (Cura-742C)

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to petition under 37 CFR 1.47(a), filed January 6, 2003.

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventors. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on September 6, 2002, without a fully executed oath or declaration. Accordingly, the Office mailed a Notice to File Missing Parts of Nonprovisional Application on October 8, 2002, requiring, *inter alia*, an executed oath or declaration, together with the surcharge for its late filing. This Notice set a two month period for reply.

In response, applicant filed the instant petition on January 6, 2003, made timely by obtaining a one month extension of time. Accompanying the petition was a declaration executed by the following joint inventors: Michele Agee, John Alsobrook II, David Anderson, Constance Berghs, Ferenc Boldog, Catherine Burgess, Stacie Casman, Elina Catterton, John Chant, Amitabha Chaudhuri, Julie Crabtree, Vincent DiPippo, Shlomit Edinger, Andrew Eisen, Karen Ellerman, Esha Gangolli, Valerie Gerlach, Loic Giot, Linda Gorman, Xiaojia Guo, Vladimir Gusev, Weizhen Ji, Ramesh Kekuda, Nikolai Khramtsov, Martin Leach, Li Li, Xiaohong Liu, Uriel Malyankar, Charles Miller, Chean Eng Ooi, Tatiana Ort, Muralidhara Padigaru, Meera Patturajan, Carol Pena, Daniel Rieger, Mark Rothenberg, Suresh Shenoy, Richard Shimkets, Steven Spaderna, Kimberly Spytek, Raymond J. Taupier, Jr., Nancy Twomlow, Corine Vernet, Edward Voss, Bryan Zerhusen, and Mei Zhong. However, the signature block for inventor Denise Lepley was left blank.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or

declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s). The instant petition does not satisfy requirement (1).

As to requirement (1), there has been no showing that Lepley was ever presented with the **application papers (specification, claims, drawings, oath or declaration)**. Regarding this, the Manual of Patent Examining Procedure states:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers.
>
> It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 U.S.P.Q. 80 Comm'r Pat. 1956).

Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.[1]

Here, the petition only establishes that "documents" were "resent" to Lepley on December 4, 2002. No mention is made as to what these documents consisted of, or for that matter, when the documents were originally sent to Lepley. On renewed petition, Rule 47 applicant must establish that a copy of the application papers were previously forwarded to Lepley, or must forward a copy of the application papers to Lepley.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, Virginia

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] MPEP 409.03(d).

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OFFICE OF PETITIONS

In re Application of
Agee, et al.
Application No. 10/236,417
Filed: September 6, 2002
Docket No. 21402-442C (Cura-742C)

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed July 16, 2003.

The renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on September 6, 2002, without a fully executed oath or declaration. Accordingly, the Office mailed a Notice to File Missing Parts of Nonprovisional Application on October 8, 2002, requiring, *inter alia*, an executed oath or declaration, together with the surcharge for its late filing. This Notice set a two month period for reply.

In response, applicant filed a petition under 37 CFR 1.47(a) on January 6, 2003, made timely by obtaining a one month extension of time. Accompanying the petition was a declaration executed by the following joint inventors: Michele Agee, John Alsobrook II, David Anderson, Constance Berghs, Ferenc Boldog, Catherine Burgess, Stacie Casman, Elina Catterton, John Chant, Amitabha Chaudhuri, Julie Crabtree, Vincent DiPippo, Shlomit Edinger, Andrew Eisen, Karen Ellerman, Esha Gangolli, Valerie Gerlach, Loic Giot, Linda Gorman, Xiaojia Guo, Vladimir Gusev, Weizhen Ji, Ramesh Kekuda, Nikolai Khramtsov, Martin Leach, Li Li, Xiaohong Liu, Uriel Malyankar, Charles Miller, Chean Eng Ooi, Tatiana Ort, Muralidhara Padigaru, Meera Patturajan, Carol Pena, Daniel Rieger, Mark Rothenberg, Suresh Shenoy, Richard Shimkets, Steven Spaderna, Kimberly Spytek, Raymond J. Taupier, Jr., Nancy Twomlow, Corine Vernet, Edward Voss, Bryan Zerhusen, and Mei Zhong. However, the signature block for inventor Denise Lepley was left blank.

The 37 CFR 1.47(a) petition was dismissed in a decision mailed on May 16, 2003. Rule 47 applicant failed to establish that a copy of the application papers had been forwarded to Lepley for her review.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On renewed petition, Rule 47 applicant has included, *inter alia*, a copy of letter from Lepley dated March 21, 2003, explaining that she was refusing to execute patent documents for CuraGen without compensation, and specifically requesting that no documents be sent to her.

The petition has been reviewed and determined to be in compliance with 37 CFR 1.47(a). The declaration filed on January 6, 2003 has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby <u>accorded Rule 1.47(a) status</u>.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing legal representative at the last known address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for preexamination processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

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FARMINGTON CT 06030-3501

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OFFICE OF PETITIONS

In re Application of
Michele L. Agee, John P. Alsobrook II, David W. Anderson, Constance Berghs, Ferenc L. Boldog, Catherine E. Burgess, Stacie J. Casman, Elina Catterton, John S. Chant, Amitabha Chaudhuri, Julie Crabtree, Vincent A. DiPippo, Shlomit R. Edinger, Andrew Eisen, Karen Ellerman, Esha A. Gangolli, Valerie Gerlach, Loic Giot, Linda Gorman, Xiaojia Sasha Guo, Vladimir Y. Gusev, Weizhen Ji, Ramesh Kekuda, Nikolai V. Khramtsov, Martin D. Leach, Denise M. Lepley, Li Li, Xiaohong Liu, Uriel M. Malyankar, Charles E. Miller, Chean Eng Ooi, Tatiana Ort, Muralidhara Padigaru, Meera Patturajan, Carol E. A. Pena, Daniel K. Rieger, Mark E. Rothenberg, Suresh G. Shenoy, Richard A. Shimkets, Steven K. Spaderna, Kimberly A. Spytek, Raymond J. Taupier, Nancy Twomlow, Corine A. M. Vernet, Edward Z. Voss, Bryan D. Zerhusen, and Mei Zhong
Application No. 10/236,417
Filed: September 6, 2002
Title: NOVEL PROTEINS AND NUCLEIC ACIDS ENCODING SAME

LETTER

Dear Ms. Lepley:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 USC 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application,

agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (703) 305-0272. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

Ivor R. Elrifi
Mintz, Levin
One Financial Center
Boston, MA 02111
(617)542-6000

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Paper No. 7

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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

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In re Application of: Alexander Michaelis, Oliver Genz and Ulrich Mantz	:	
Application No. 10/236,448	:	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)
Filed: September 6, 2002	:	
Title of Invention: OPTICAL MEASUREMENT SYSTEM AND METHOD	:	

This is in response to a petition under 37 CFR 1.47(a), filed with the instant application on September 6, 2002, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on September 6, 2002, without a fully executed oath or declaration. Along with the application, Petitioner submitted the instant Petition.

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.

Applicant lacks items (1) set forth above.

As to item (1), the petition states that the nonsigning inventor cannot be located. Efforts to locate the nonsigning inventor include obtaining the inventor's home address from his former employer and mailing the application and declaration to the inventor's last known home address and to his last known work

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KRUMHOLZ & MENTLIK
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WESTFIELD, NJ 07090

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SEP 17 2003

OFFICE OF PETITIONS

In re Application of:
Alexander Michaelis, Oliver Genz
and Ulrich Mantz
Application No. 10/236,448
Filed: September 6, 2002
Title of Invention: OPTICAL
MEASUREMENT SYSTEM AND METHOD

DECISION NOTING
JOINDER OF INVENTOR

This is in response to the Request for Reconsideration Petition, under 37 CFR 1.47(a), filed September 4, 2003, noting the joinder of the inventor. A one (1) month extension-of-time is is required and the fee has been charged deposit account 12-1095 as authorized in the instant petition.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the Reconsideration of Petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The Declaration/Power of Attorney has been entered and made of record.

This application is being returned to the Office if Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/236,461	09/05/2002	1732	440	38559-0300582	9	6	3

CONFIRMATION NO. 4356

CORRECTED FILING RECEIPT

OC000000016033664

PILLSBURY WINTHROP LLP
2550 Hanover Street
Palo Alto, CA 94304-1115

Date Mailed: 05/16/2005

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 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)

Rusty L. Blanski, Lancaster, CA;
Shawn H. Phillips, Lancaster, CA;
Stephen L. Rodgers, Madison, AL;
Joseph D. Lichtenhan, San Juan Capistrano, CA;
Joseph J. Schwab, Huntington Beach, CA;

Power of Attorney:

G Knight Jr–17698
George Sirilla–18221
G Edgell–24238
Richard Zaitlen–27248
Jonathan Jobe Jr–28429
Glenn Perry–28458
Dale Lazar–28872
Mark Paulson–30793
Roger Wise–31204
Stephen Glazier–31361

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/317,500 09/05/2001

Foreign Applications

If Required, Foreign Filing License Granted: 09/02/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/236,461

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

BEST AVAILABLE COPY
BEST AVAILABLE COPY

Early Publication Request: No

**** SMALL ENTITY ****

Title

Lubrication via nanoscopic polyhedral oligomeric silsesquioxanes

Preliminary Class

264

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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Paper No. 6

DAVIDSON DAVIDSON & KAPPEL LLC
485 SEVENTH AVENUE
14TH FLOOR
NEW YORK NY 10018

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MAR 2 5 2004

OFFICE OF PETITIONS

In re Application of	:	
Michael Callahan	:	
Application No. 10/236,464	:	ON PETITION
Filed: September 6, 2002	:	
Attorney Docket No. 262.1001CON2	:	

This is a decision on the petition under 37 CFR 1.137(a), filed February 23, 2004, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application, mailed October 8, 2002. This Notice set a period for reply of two months to submit the statutory basic filing fee, $65 late filing fee surcharge, and replacement drawings. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on December 9, 2002. A Notice of Abandonment was mailed on January 22, 2004.

Petitioner argues that he timely changed the Customer Number associated with the above application. However, according to petitioner, the Notice to File Missing Parts was erroneously mailed to petitioner's old address at "1140 Avenue of the Americas". In support thereof, petitioner has included a copy of a "Notice of Customer Number Data Change", dated November 22, 2000, changing the address associated with Customer Number 23280 to the above address.

A review of the application file reveals that it was properly filed with a Customer Number, number 23280.

In view thereof, **the holding of abandonment is withdrawn.**

Given the basis for granting this decision, the $55 petition fee has been refunded to Deposit Account No. 50-0552.

Receipt of the $385 statutory basic filing fee, $65 late filing fee surcharge, and replacement drawings is acknowledged.

Future correspondence concerning this application will be mailed to the above address of record.

The application file is being forwarded to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 8

Hickman, Palermo, Truong & Becker, LLP
1600 Willow Street
San Jose, CA 95125

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JUL 0 9 2004

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Edoardo Charbon	:	
Application No. 10/236,490	:	
Filed: September 5, 2002	:	
Attorney Docket No. 60045-0019	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 29, 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 September 10, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight December 10, 2003.

In response, petitioner submitted with the instant petition $665 for the petition to revive fee, and an amendment.

The petition is **GRANTED**.

The application file is being forwarded to Technology Center Art Unit 2878, for review of the amendment filed with the instant petition.

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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Paper No. 5

IRELL & MANELLA LLP
840 NEWPORT CENTER DRIVE
SUITE 400
NEWPORT BEACH CA 92660

MAIL

FEB 6 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
Tay HIOK	:	
Application No. 10/236,515	:	DECISION ON PETITION
Filed: September 6, 2002	:	TO MAKE SPECIAL
For: IMAGE SENSOR WITH INTERLEAVED IMAGE OUTPUT	:	

This is a decision on the petition filed September 2, 2003 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

10/236544

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/14/05

TO SPE OF : ART UNIT 2859

SUBJECT : Request for Certificate of Correction on Patent No.: 6802129

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:

Certificate of Correction is for minor typographical errors. Approved.

G. Bradley Bennett AU 2859 4.5.5

~~G. BRADLEY BENNETT~~
PRIMARY EXAMINER

Andrew Hirshfeld
SPE, AU 2859

SPE — **Art Unit** 2859

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080228

DATE : February 28, 2008

TO SPE OF : ART UNIT 1634

SUBJECT : Request for Certificate of Correction on Patent No.: 7008771

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:

RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER
SPE: Ram Shukla **Art Unit** 1634

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080228

DATE : March 26, 2008

TO SPE OF : ART UNIT 1634

SUBJECT : Request for Certificate of Correction on Patent No.: 7008771

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: Ram Shukla **Art Unit** 1634

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Paper No. 5

THOMAS F. WOODS
MEDTRONIC, INC.
MS LC340
710 MEDTRONIC PARKWAY
MINNEAPOLIS, MN 55432-5604

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AUG 21 2003

OFFICE OF PETITIONS

In re Application of :
Martin T. Gerber, et al. :
Application No. 10/236,578 :
Filed: September 6, 2002 :
Attorney Docket No. P10974.00US :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 16, 2003, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application 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.

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

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AUG 28 2003

OFFICE OF THE DIRECTOR
TC 3600

Paper No. 5

Attn: Ivar M. Kaardal
Kaardal & Associates, PC
3500 South First Ave. Circle – Suite 250
Sioux Falls, SD 57105-5802

In re Application of:	:	
OWEN	:	**NOTICE OF WITHDRAWAL**
Application No. 10/236,590	:	**FROM ISSUE UNDER**
Filed: September 6, 2002	:	**37 CFR 1.313(b)**
Attorney Docket No. 22-0357	:	

The above-identified application is withdrawn from issue after payment of the issue fee so as to re-open prosecution because of the unpatentability of one or more of the 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 Stephen Gordon, Acting Supervisory Patent Examiner, at (703) 308-2556.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

D. Glenn Dayoan, Acting Director
Patent Technology Center 3600
(703) 308-1134

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Paper No. 5

COZEN AND O'CONNOR
1900 MARKET STREET
PHILADELPHIA PA 19103

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SEP 2 9 2003

OFFICE OF PETITIONS

In re Application of	:	
Verge et al.	:	
Application No. 10/236,599	:	DECISION DISMISSING
Filed: 6 September, 2002	:	PETITION
Atty Docket No. 128825	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 4 June, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of prior-filed international Application No. PCT/FR01/00702, filed on 8 March, 2001.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after 29 November, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) of the prior-filed application, unless previously submitted;[1]

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) and the date the claim was

[1]Any nonprovisional application or international application designated the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designated the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS))to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on 6 September, 2002, and was copending with the above-noted, prior-filed international application, at the time of filing, for which priority is claimed. A references to the above-noted, prior filed international application has been included in an amendment to the first sentence of the specification following the title which was filed concurrently with the instant petition under 37 CFR 1.78(a)(3).

The reference to the above-noted, prior-filed international application was not included in the manner specified in 37 CFR 1.78(a)(2)(*i.e.*, in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(2).

A reference to add the above-noted, prior-filed application on page one following the first sentence of the specification has been included in an amendment filed on 4 June, 2003. However, the amendment is not acceptable because it does not specify the relationship between the prior-filed international application and the present application. The amendment must specify the relationship (*e.g.*, continuation, divisional, or continuation-in-part) between the prior-filed application and the application claiming the benefit thereof.

Additionally, a petition under 37 CFR 1.55(c) is required in order to claim the benefit of the prior foreign application, French application 00/03031, filed on 9 March, 2000, since the claim to the benefit of the international application claiming priority to the French application was not in the proper form.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment is required.

In order to expedite consideration, petitioner may wish to submit the substitute amendment by facsimile to the number indicated below and to the attention of Senior Petitions Attorney Douglas I. Wood.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703)308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

The petition fee of $1300.00 has been charged to counsel's deposit account, No. 50-1275, as authorized in the present petition.

Telephone inquires should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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Paper No. 8

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PHILADELPHIA PA 19103

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APR 0 2 2004

OFFICE OF PETITIONS

In re Application of	:
Verge et al.	: DECISION ON PETITION
Application No. 10/236,599	: UNDER 37 CFR 1.78(a)(3)
Filed: 6 September, 2002	: AND 1.55(c)
Atty Docket No. 128825	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed on 23 October, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of prior-filed PCT Application No. PCT/FR001/00702, filed on 8 March, 2001. This is also a decision on the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim of foreign priority to French application No. 00/03031, filed on 9 March, 2000.

The petition is **GRANTED**.

Petition Under 37 CFR 1.78(a)(3)

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after 29 November, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) of the prior-filed application, unless previously submitted;[1]

[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

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The present pending application was filed on 6 September, 2002, and was copending with the above-noted, prior-filed international application for which benefit is claimed. A reference to the above-noted, prior-filed international application, PCT/FR01/00702, which designates the United States, has been included in an amendment to the first sentence of the specification following the title, which was filed concurrently with the present petition under 37 CFR 1.78(a)(3).

The present nonprovisional application was filed after 29 November, 2000, and the claim for benefit herein is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2). Having found that the present petition satisfies the conditions of 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed claim for benefit under 35 U.S.C. § 365(c), the petition to accept an unintentionally delayed claim to benefit to prior-filed Application No. PCT/FR01/00702 is granted.

The benefit claim has been entered in Office records. A corrected Filing Receipt accompanies this decision.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon.

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series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate. (*see* § 1.14).

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.

Petition under 37 CFR 1.55(c)

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date;

(3) the surcharge, as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The above-identified pending nonprovisional application was filed on 6 September, 2002, which is after 29 November, 2000, and is a continuation of international Application No. PCT/FR01/00702, filed on 8 March, 2001, which claims priority to French Application No. 00/03031, filed on 9 March, 2000. International Application No. PCT/FR01/00702 was filed within 12 months the filing date of the foreign application to which benefit is claimed. The amendment filed on 23 October, 2003, also identifies the foreign application for which priority is claimed. Pursuant to petitioner's authorization, the $1,300.00 surcharge has been paid. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition is **granted**.

The granting of the petition to accept the delayed priority claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that the instant application is entitled to the priority of the prior-filed application. In order for the instant application to be entitled to the priority of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a) 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 priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this priority claim and determine whether the instant application is entitled to the claim of priority submitted herewith.

The foreign priority claim has been entered in Office PALM records. A corrected Filing Receipt is enclosed which includes the foreign priority claim and projected publication date for the above-identified application.

The application is being forwarded to Technology Center 1700 for processing the amendment filed with the petition on 23 October, 2003, and for consideration by the examiner of the claim under 35 U.S.C. § 365(c) and 37 CFR 1.78(a)(1)-(2) for the benefit of the above-noted, prior-filed international application and for consideration of the foreign priority claim under 35 U.S.C. § 119 (a)-(d) and 37 CFR 1.55(a).

Telephone inquiries related to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

Charles A. Pearson
Director, Office of Petitions

Encl: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

AKIN GUMP STRAUSS HAUER &
FELD L.L.P.
ONE COMMERCE SQUARE
2005 MARKET STREET
SUITE 2200
PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Patent No. 6,759,284	:	
Kang et al.	:	
Issue Date: July 6, 2004	:	DECISION ON PETITION
Application No. 10/236,608	:	
Filed: September 6, 2002	:	
Atty Docket No. 681954-96US	:	

This is a decision on the "PETITION UNDER 37 C.F.R. §1.182 REQUESTING DUPLICATE LETTERS PATENT," filed December 15, 2005, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The file record discloses that application No. 10/236,608, matured into U.S. Patent No. 6,759,284 on July 6, 2004. Petitioner requests a duplicate because the original Letters Patent is lost. Petitioner could not determine, despite asserted diligent effort, whether the patent was received by the prior attorneys of record. The petition has been made by an appropriate party in interest, i.e., an attorney of record and includes the petition fee.

Accordingly, the petition is **GRANTED**.

After mailing of this decision, a copy of the decision will be forwarded to the Publishing Division for issuance of the duplicate Letters Patent.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219. Any questions concerning

issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250 ext. 139.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

cc: Krystal Paige, South Tower 8th floor, Room C-32 (FAX 703-746-4642)

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

COPY MAILED
AUG 1 8 2004
OFFICE OF PETITIONS

In re Patent No. 6,762,317 :
Issue Date : July 13, 2004 :
Application No. 10/236,626 : ON PETITION
Filed: September 4, 2000 :
Attorney Docket No. MTC 6631.2 :

This is a decision on the petition filed August 6, 2004, to waive the rules and accept the correction of the assignee's name on the front page of the above-identified patent.

The petition is **GRANTED**.

In view of this decision, petitioner may request a Certificate of Correction pursuant to the provisions of 37 CFR 1.323. Any request for a Certificate of Correction must be accompanied by the $100 Certificate of Correction fee and completed Form PTO/SB/44.

The file is being forwarded to the Files Repository.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-9220.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

11/25/2009

Paper No.: _____

DATE : 12-27-07

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction on Patent No.: 7153731

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:

CHARLES D. GARBER
SUPERVISORY PATENT EXAMINER

SPE

2812
Art Unit

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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

CARDINAL HEALTH
7000 CARDINAL PLACE
LEGAL DEPARTMENT - INTELLECTUAL PROPERTY
DUBLIN OH 43017

Paper No. 8

In re Application of	:	
Geoffrey CRUTTENDEN et al.	:	
Application No. 10/236,669	:	ON PETITION
Filed: September 6, 2002	:	
Attorney Docket No. RPS6039D1	:	

This is a decision on the petition, filed March 25, 2004, requesting withdrawal of the holding of abandonment under the provisions of 37 CFR 1.181. The petition is properly treated under the provisions of 37 CFR 1.8(b).

The petition is **GRANTED**.

Petitioner asserts that the abandonment be withdrawn as petitioner timely filed a response to the non-final Office action mailed June 30, 2003. Applicant has: (1) informed the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence; (2) supplied an additional copy of the previously mailed or transmitted correspondence and certificate; and (3) included a statement which attests on a personal knowledge basis or the satisfaction of the director to the previously timely mailing or transmission along with a copy of the sending units report confirming transmission. Accordingly, the provisions of 37 CFR 1.8(b) have been met.

MPEP 502 states: A minor error in the identification of the application can be corrected by the Office provided the correct identification can be quickly discovered. Therefore, as petitioner provided the correct docket number, inventorship, and title the paper could have been correctly matched to the application.

The $130 petition fee submitted with the petition on March 25, 2004 is unnecessary; however the three-month extension of time fee of $950 submitted with the response filed December 11, 2003 is necessary. Accordingly, petitioner's deposit account no. 50-0256 will be charged $820.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 2854 for appropriate action on the concurrently filed amendment.

Brian Hearn
Petitions Examiner
Office of Petitions

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Paper No. 6

PENNIE & EDMONDS LLP
1667 K STREET NW
SUITE 1000
WASHINGTON DC 20006

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MAY 15 2003

OFFICE OF PETITIONS

In re Application of	:
Olsen, Olsen, Zumbach, and	:
Dacorogna	: DECISION ACCORDING STATUS
Application No. 10/236,690	: UNDER 37 CFR 1.47(a)
Filed: 6 September, 2002	:
Attorney Docket No. 10366-022-999	:

This is in response to the petition filed under 37 CFR 1.47(a) on 10 April, 2003.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventors, Jorgen L. Olsen, Giles O. Zumbach, and Michel M. Dacorogna, have refused to join in the filing of the above-identified application after having been mailed a copy of the application papers. Specifically, the declaration of Anita Hunkeler, Finance & Personnel Officer, Olsen, Ltd., establishes that the inventors were sent a copy of the application papers on two occasions, but failed to execute and return the declaration naming them as joint inventors along with Richard B. Olsen.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The Office notes that the declaration signed by joint inventor Olsen has not been dated. While the Office no longer checks the date of execution of the oath or declaration and will no longer

require a newly executed oath or declaration where the date of execution has been omitted, applicants are reminded that they have a continuing duty of disclosure under 37 CFR 1.56.[1]

The application is being forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] MPEP 602.05

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Paper No. 4

FISH & RICHARDSON, P.C.
4350 La Jolla Village Drive, Suite 500
San Diego, CA 92122

MAILED

MAR 3 1 2004

Technology Center 2100

In re Application of:
Leonard K. KNIGHT
Application No. 10/236,695
Filed: September 6, 2002
For: INTERACTIVE SCREENSAVER

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed October 2, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: James Grossman
9 Woodland Drive
Westport, CT 06880

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
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OCT 2 6 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

STEPHEN G. KIMMET
118 GROSS STREET
TIFFIN OH 44883

In re Application of
Stephen G. KIMMET, et al.
Application No. 10/236,740
Filed: September 7, 2002
For: ENTITY CATASTROPHIC SECURITY SYSTEM

:DECISION ON PETITION
:TO MAKE SPECIAL

This is a decision on the petition to make special filed September 20, 2002 under 37 C.F.R. §102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism, to make the above-identified application special. The petition to make special for inventions which materially contribute to the conservation of energy is rendered moot by this decision.

M.P.E.P. §708.02 (XI) sets forth the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 102(d).

M.P.E.P. §708.02 (XI) INVENTIONS FOR COUNTERING TERRORISM
In view of the importance of developing technologies for countering terrorism and the desirability of prompt disclosure of advances made in these fields, the U.S. Patent and Trademark Office will accord "special" status to patent applications relating to counter-terrorism inventions.
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.

The application meets the requirements as set forth above. Accordingly, the Petition is **GRANTED**.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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OFFICE OF PETITIONS

WINSTEAD SECHREST & MINICK
P.O. BOX 50784
BANK ONE CENTER
DALLAS TX 75201-0784

In re Application of :
Dean L. Sicking et al :
Application No. 10/236,755 : ON PETITION
Filed: September 6, 2002 :
Attorney Docket No. 24153-P001C1 :

This is a decision on the petition, filed August 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 December 14, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

The examiner of Technology Center AU 3634 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

cc:
WINSTEAD SECHREST & MINICK
910 TRAVIS STREET, SUITE 2400
HOUSTON, TEXAS 77002-5895

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/22/2010

Applicant	: Shay Mizrachi	: DECISION ON REQUEST FOR
Patent Number	: 7620692	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/236,768	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/06/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1479** 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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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 05/18/2010

Applicant : Shay Mizrachi
Patent Number : 7620692
Issue Date : 11/17/2009
Application No : 10/236,768
Filed : 09/06/2002

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1514** 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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KOPPEL, PATRICK, HEBYL & DAWSON
555 ST. CHARLES DRIVE, SUITE 107
THOUSAND OAKS, CALIFORNIA 91360

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OFFICE OF PETITIONS

In re Application of	:	
Francisco **HINOJOSA ET AL**	:	
Application No. 10/236,777	:	ON PETITION
Filed: September 6, 2002	:	
Attorney Docket No. 922-27-082	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 12, 2007, 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 May 16, 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 August 17, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment, a Request for Continued Examination, and the $810 filing fee; (2) the petition fee of $1540; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office Action of January 24, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Thurman K. Page at (571) 272-0602.

The application file is being referred to Technology Center AU 1654 for appropriate action on the concurrently filed Request for Continued Examination and amendment.

David Bucci
Petitions Examiner
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 5

GEORGE E. KERSEY
P.O. BOX 1073
FRAMINGHAM MA 01701

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MAR 2 6 2004

OFFICE OF PETITIONS

In re Application of
Joseph R. Paradis et. Al.
Application No. 10/236,782
Filed: September 7, 2002
Title of Invention: SWABBABLE NEEDLELESS VIAL ACCESS

ON PETITION

This is a decision on the petition under 37 CFR 1.181 filed February 17, 2004, to withdraw the holding of abandonment in the above identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision dismissing the petitions 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** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the Notice to File Corrected Application Papers ("Notice"), mailed October 9, 2002. A shortened statutory period of two months was set for replying to the Notice. No response having been filed, this application became abandoned on December 10, 2002. Accordingly, a Notice of Abandonment was mailed February 9, 2004.

Petitioner asserts that the "Notice" mailed October 9, 2002 was never received. A review of the record indicates no irregularity in the mailing of the "Notice", and in the absence of any irregularity in the mailing, there is a strong presumption that the "Notice" was properly mailed to the address of record. This presumption may be overcome by a showing that the "Notice" was not in fact received. The showing required to establish the failure to receive the "Notice" 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 records where the non-received Office communications would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1] The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the "Notice" may have been lost after receipt rather than a conclusion that the "Notice" was lost in the mail (e.g. if the practitioner has a history of not receiving Office communications).

Petitioner claims to have docket records from 2003 and 2004 but no records have been

[1]MPEP § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

maintained from 2002.

Petitioner has submitted no evidence that the Notice mailed October 9, 2002 was not received, save petitioner's bald assertion. The showing of record therein is insufficient to warrant withdrawal of the holding of abandonment and the petition will have to be dismissed.[2]

Per petitioners request, the application papers submitted with the petition on February 17, 2004, will be sent to the Office of Initial Patent Examination to be processed as a Continuation-in-Part of application no. 09073,022.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries concerning this matter should be directed to the undesigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[2]In order to have a holding of abandonment withdrawn, a petitioner must demonstrate that the Office communication in question was not received at the address to which it was mailed. See Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971).

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Paper No. 7

GEORGE E. KERSEY
P.O. BOX 1073
FRAMINGHAM MA 01701

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JUL 1 4 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Joseph R. Paradis et. Al. :
Application No. 10/236,782 :
Filed: September 7, 2002 :
Title of Invention: SWABBABLE NEEDLELESS VIAL ACCESS :

This is a decision on the renewed petition under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **Granted**.

This application became abandoned December 10, 2002 for failure to timely reply to the Notice to File Corrected Application Papers mailed October 9, 2002, which set a two (2) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed February 9, 2004. Petitioner filed a petition under 37 CFR 1.181 on February 17, 2004, asserting that the Notice to File Corrected Application Papers was never received. The petition was dismissed in a decision mailed March 26, 2004.

The file record discloses that the Notice to File Corrected Application Papers was mailed to the address of record which is the same address used on all correspondences from the USPTO including the Notice of Abandonment.

Comes now petitioner with additional evidence not previously submitted, in the form of a copy of the file jacket for the above identified application, claiming that entries are made thereon for each received document, and that if the Notice to File Corrected Application Papers mailed October 9, 2002 had been received, it would have been entered on this jacket. Petitioner claims to have searched all records and the October 9, 2002 Notice was not received.

Since the statement from the petitioner and the exhibit from the file jacket for the instant matter show no entry indicating receipt of the Notice to File Corrected Application Papers mailed October 9, 2002, it is apparent that the Notice was not received. The evidence submitted corroborates non-receipt of the Notice.

In view of the facts set forth in the petition, it is concluded that the Notice to File Corrected Application Papers was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

This application is being forwarded to the Office of Initial Patent Examination for a remailing of the Notice to File Corrected Application Papers .

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Frederick R. Cantor, Esq
Post Office Box 87
SOUTH FREEPORT ME 04078

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MAR 08 2005

OFFICE OF PETITIONS

In re Application of :
Washburn et al. :
Application No. 10/236,783 : ON PETITION
Filed: September 7, 2002 :
Attorney Docket Number: GOULD1234

This is a decision on the petition under 37 CFR 1.137(b), filed January 21, 2005, to revive the above-identified application.

This petition is hereby **Dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. §704.

This above-identified application became abandoned for failure to timely file a complete reply to the non-final Office Action of May 19, 2004. A Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on June 17, 2004 which set an extendable reply period of one month. This application became abandoned on July 18, 2004. A Notice of Abandonment was mailed on November 18, 2004.

The merits of the petition have not been reviewed. The petition and amendment provided do not contain a signature pursuant to 37 CFR 1.4. Further it is also noted that petitioner has failed to provide the appropriate petition fee. The current petition fee is $750.00. Petitioner has submitted $665. Accordingly petitioner will need to submit the $85.00 difference.

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 Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Frederick R. Cantor, Esq
Post Office Box 87
SOUTH FREEPORT ME 04078

FAX RECEIVED

MAY 25 2005

OFFICE OF PETITIONS

In re Application of :
Washburn et al. :
Application No. 10/236,783 : ON PETITION
Filed: September 7, 2002 :
Attorney Docket Number: GOULD1234

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 25, 2005, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a complete reply to the non-final Office Action of May 19, 2004. A Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on June 17, 2004 which set an extendable reply period of one month. This application became abandoned on July 18, 2004. A Notice of Abandonment was mailed on November 18, 2004. A petition to revive was dismissed on March 8, 2005.

This petition is hereby **GRANTED**.

The Office hereby acknowledges the receipt of the amendment submitted on January 25, 2005.

This application is being forwarded to Technology Center 3700 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

DATE 8/26/07 APPLICATION NUMBER 101236 784

DOC CODE Alt dec PVBW DOC DATE 09/06/07

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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SEP 0 6 2007

OFFICE OF PETITIONS

THE LAW OFFICE OF KIRK D. WILLIAMS
PO BOX 61538
DENVER CO 80206-8538

In re Application of	:	
Hinni, et al.	:	DECISION ON APPLICATION
Application No. 10/236,784	:	FOR PATENT TERM ADJUSTMENT
Filed: September 7, 2002	:	
Atty. Dkt. No.: 20943	:	

This is a decision on the "REQUEST FOR REINSTATEMENT OF REDUCED PATENT TERM ADJUSTMENT (PTA) PURSUANT TO 37 CFR 1.705(b)" filed March 24, 2007. This matter is being treated under 37 CFR 1.705(b) as an application for patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application, mailed March 16, 2007, indicated that the PTA to date is 765 days. Applicants request that the Determination of Patent Term Adjustment be corrected from 765 days to an adjustment of 952 days.

As undisputed by applicants, the application is entitled to an adjustment of 795 days in accordance with 37 CFR 1.702(a)(1) in connection with the non-final Office action mailed January 10, 2006.

As argued by applicants, the application is entitled to a further adjustment of 187 days in accordance with 37 CFR 1.702(a)(2) in connection with the Notice of Allowance mailed March 16, 2007. A review of the record reveals that the final Office action mailed July 26, 2006 in response to applicants' reply dated May 10, 2006 was vacated on January 25, 2007. The Notice of Allowance was later mailed March 16, 2007 in response to applicants' reply dated May 10, 2006. Accordingly, the period of adjustment began September 11, 2006, the day after the date that is four months after the date that the reply was filed, and ended March 16, 2007, the date that the Notice of Allowance was mailed. *See*, 37 CFR 1.703(a)(2).

As undisputed by applicants, the adjustment totaling 982 days is properly reduced 30 days in accordance with 37 CFR 1.704(b) in

connection with the reply filed May 10, 2006 in response to the non-final Office action mailed January 10, 2006.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 952 days, as argued by applicants.

Receipt is hereby acknowledged of the required PTA application fee of $200.00.

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: Copy of Adjustment PAIR Calculation

Day : Wednesday

PALM INTRANET

Date: 9/5/2007
Time: 15:28:13

PTA Calculations for Application: 10/236784			
Application Filing Date:	09/07/2002	PTO Delay (PTO):	795
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	30
Post-Issue Petitions:	0	Total PTA (days):	952
PTO Delay Adjustment:	187		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
46	09/05/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	187		
33	03/16/2007	MAIL NOTICE OF ALLOWANCE			
32	03/15/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
31	02/07/2007	MAIL EXAMINER'S AMENDMENT			
30	02/02/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
29	02/05/2007	EXAMINER'S AMENDMENT COMMUNICATION			
28	02/05/2007	NOTICE OF ALLOWABILITY			
27	01/25/2007	MAIL NOTICE OF WITHDRAWN ACTION			
26	01/24/2007	LETTER WITHDRAWING / VACATING OFFICE ACTION			
25	01/11/2007	PG-PUB ISSUE NOTIFICATION			
24	11/14/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	09/27/2006	RESCIND NONPUBLICATION REQUEST FOR PRE GRANT PUBLICATION			
22	07/26/2006	MAIL FINAL REJECTION (PTOL - 326)			
21	07/24/2006	FINAL REJECTION			
20	05/22/2006	DATE FORWARDED TO EXAMINER			
19	05/10/2006	RESPONSE AFTER NON-FINAL ACTION		30	15
18	05/10/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
17	02/27/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
16	02/06/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
15	01/10/2006	MAIL NON-FINAL REJECTION	795		-1

14	01/09/2006	NON-FINAL REJECTION			
13	08/13/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
12	10/05/2005	CASE DOCKETED TO EXAMINER IN GAU			
11	05/31/2005	CASE DOCKETED TO EXAMINER IN GAU			
10	11/23/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	08/13/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	07/21/2003	CASE DOCKETED TO EXAMINER IN GAU			
7	01/15/2003	CASE DOCKETED TO EXAMINER IN GAU			
6	01/06/2003	TRANSFER INQUIRY TO GAU			
5	12/03/2002	TRANSFER INQUIRY TO GAU			
4	10/25/2002	APPLICATION DISPATCHED FROM OIPE			
3	10/22/2002	APPLICATION IS NOW COMPLETE			
2	09/16/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/07/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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THE LAW OFFICE OF KIRK D. WILLIAMS
PO BOX 61538
DENVER CO 80206-8538

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OFFICE OF PETITIONS

In re Application of	:	
Aaron Louis Hinni et al	:	
Application No. 10/236,784	:	DECISION GRANTING PETITION
Filed: September 7, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 20943	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 20, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 24, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2154 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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WASHINGTON, D.C. 20231
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FEB 05 2003

OFFICE OF PETITIONS

SANFORD E. WARREN, JR.
Gardere & Wynne LLP
1601 Elm Street, Suite 3000
Dallas TX 75201

In re Application of
Wooten, et al.
Application No. 10/236,818
Filed: September 6, 2002
Attorney Docket No. 112558-1011
For: FOUNTAIN HAVING LIGHTED PORTION

DECISION GRANTING PETITION

This is a decision on the petition entitled, "PETITION TO THE COMMISSIONER TO ACCORD A FILING DATE AND REQUEST A FILING RECEIPT", filed November 12, 2002 (certificate of mailing date November 6, 2002) and supplemented on December 16, 2002 (certificate of mailing date December 9, 2002), requesting that the above-identified application be accorded a filing date of September 6, 2002. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on September 6, 2002. On October 9, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that no filing date had been accorded to the application papers deposited on September 6, 2002 because no drawings were present, as is required by 35 USC 113.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that the above-identified application be accorded a filing date of September 6, 2002 on the basis that 5 sheets of drawing figures were received in the Patent and Trademark Office (PTO) on September 6, 2002. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing September 6, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 5 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 5 sheets of drawing figures were filed on September 6, 2002. MPEP 503. Accordingly, the request is granted.

The $130.00 petition fee will be credited to deposit account no. 07-0153.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **September 6, 2002**, using the copy of the 5 sheets of drawings submitted with the instant petition. Office records will be corrected to show that 5 sheets of drawings were present on filing. The Office of Initial Patent Examination will mail a filing receipt in due course.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Mailed: 1-3-06

dss

In re application of	:	
Roy E. McAlister	:	DECISION ON
Serial No10/236,820	:	PETITION
Filed: September 07, 2002	:	
For: PRESSURE ENERGY CONVERSION SYSTEMS		

This is a decision on the Petition to Overcome Mail Delivery Failure filed on July 07, 2005. The petition requests that the period for reply to the Office action mailed May 27, 2005 be restarted and that the action be remailed as applicant never received the Office action.

DECISION

The Instant PETITION is accepted as a petition under 37 CFR 1.181(no fee).

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 May 27, 2005 was not received. The evidence provided includes an affidavit that the Office action of May 27, 2005 was never received by applicant.
However, the petition also declares that applicant did have access to the Office Action on June 29, 2005 by looking at the application file contents on PAIR at the USPTO web site and subsequently filed a Response on June 30, 2005.
The petition is **GRANTED**.

The time for Response to the Office Action of May 27, 2005 will be restarted from the date Applicant was in possession of the Office action; that being the date viewed in PAIR, which was June 29, 2005 and no extension of time will be required for the Response filed June 30, 2005 in order for the Response to be considered timely. The application will be forwarded to the examiner for consideration of the Response filed June 30, 2005.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Roy E. McAlister
1739 West 7th Avenue
Mesa, AZ 85202