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Paper No.

NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER NJ 07936-1080

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FEB 07 2005

OFFICE OF PETITIONS

In re Application	:	
Simard et al.	:	
Application No. 10/241,602	:	DECISION ON APPLICATION
Filed: September 11, 2002	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. VA/H-32319A/AHE	:	
	;	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(b)," filed August 6, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to fifteen (15) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is fifteen **(15)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 12, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. On August 6, 2004, applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicants dispute the reduction of 24 days attributed to their delay in responding to the Notice to File Missing Parts of Application mailed October 4, 2002. Applicants state that a complete reply was received in the Office on December 20, 2002, and thus, there should have been no reduction for applicant delay on this basis.

Applicants specifically state that the patent issuing from the application is not subject to a terminal disclaimer.

Applicants are correct. Their response to the Notice to File Missing Parts of Application mailed October 4, 2002, is of record in the application with a date of receipt by the Office of

[1] PALM records indicate that the Issue Fee was also received in the Office on August 6, 2004.

December 20, 2002. Furthermore, the response included a complete reply to the Notice. Thus, the Office should not have assessed applicants a delay of 24 days. The response was filed within the three-month period under 37 CFR 1.704(b). Applicants did not fail to engage in reasonable efforts to conclude prosecution of the application by delaying in replying to the Notice to File Missing Parts of Application.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is fifteen (15) 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 Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen

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ONE HEALTH PLAZA 104/3
EAST HANOVER NJ 07936-1080

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SEP 0 8 2005

OFFICE OF PETITIONS

In re Patent No. 6,887,989
Simard et al.
Issue Date: May 3, 2005
Application No. 10/241,602
Filed: September 11, 2002
Atty Docket No. VA/H-32319A/AHE

: LETTER REGARDING
: PATENT TERM ADJUSTMENT

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(d)," filed May 10, 2005. Patentees request that the patent term adjustment indicated on the patent be increased from forty-three (43) days to one hundred sixty-three (163) days.

The request 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 sixty-three (163) days.

On May 3, 2005, the application matured into U.S. Patent No. 6,887,989 with a revised patent term adjustment of 43 days. On May 10, 2005, patentees timely submitted with request for reconsideration, asserting that the correct number of days of Patent Term Adjustment is 163 days. Citing 37 C.F.R. § 1.704(e), patentees state that the Office was incorrect in assigning a 120 day reduction for the filing of an application for patent term adjustment after the mailing of the notice of allowance.

Patentees are correct. On August 6, 2004, applicants filed an application for patent term adjustment. By decision mailed February 7, 2005, the application was granted. It was concluded that at the time of the mailing of the notice of allowance, there was no applicant delay. However, a review of the application history confirms that an applicant delay of 120 days was entered for applicants' filing of the application for patent term adjustment. As stated by patentees, pursuant to § 1.704(e), the filing of an application for patent term adjustment is not a failure to engage within the meaning of § 1.704(c)(10). Thus, the reduction of 120 days was entered in error.

Pursuant to the decision mailed February 7, 2005 and the subsequent accrual of 148 days for Office delay in issuing the patent, the patent should have issued with a revised patent term adjustment of 163 days.

Under the circumstances of this case, no fee is required. The $200.00 fee submitted is being refunded to Deposit Account No. 19-0134, as authorized.

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 SIXTY-THREE (163)** days.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

SHAHAN ISLAM, ESQ.
KMZ ROSENMAN
575 Madison Avenue
New York NY 10022-2585

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MAR 3 1 2003

OFFICE OF PETITIONS

In re Application of
Martinelli
Application No. 10/241,603
Filed: September 11, 2002
Attorney Docket No. 3152/Intercuentas
For: ELECTRONIC TRADING SYSTEM AND METHOD FOR ACCOUNTS RECEIVABLES AND PAYABLES

: DECISION DISMISSING
: PETITION

This is a decision on the petition filed February 19, 2003 (certificate of mailing date February 11, 2003), requesting that the above-identified application be accorded a filing date of September 10, 2002.

Petitioner alleges that the application was deposited in Express Mail service on September 10, 2002.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See §1.6(a).

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last

scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS."

The instant petition, does not include a showing that the application was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for September 10, 2002 and the corroborating evidence required by the rule. The instant petition was made 5 months after the alleged deposit and recount routine events. The statements found in the petition do not amount to persuasive evidence of a September 10, 2002 deposit in Express Mail service.

In addition, petitioner is reminded that a certificate of mailing cannot be utilized to establish a filing date for an application. 37 CFR 1.8(a)(2)(I)(A)

Petitioner has not provided a copy of Express Mail label no. EV111271965US showing a date-in of September 10, 2002 or any evidence from the USPS of a September 10, 2002 deposit. In fact, the only available USPS evidence points to a September 11, 2002 deposit in Express Mail.

An independent review of the USPS Track and Confirm database for Express Mail label no. EV111271965US reveals that a package associated with label no. EV111271965US was accepted by the USPS on September 11, 2002 at 10:49 am.

Accordingly, the petition to accord a September 10, 2002 filing date is dismissed. This application will retain a filing date of September 11, 2002.

The application is being returned to Technology Center 3600.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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OWEN L. LAMB
P.O. BOX 386
PRESCOTT, AZ 86302-0386

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OFFICE OF PETITIONS

In re Application of :
Damon D. Brink, et al. :
Application No. 10/241,609 : DECISION ON PETITION
Filed: September 10, 2002 : TO WITHDRAW
Attorney Docket No. D-1580 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 5, 2005.

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

A review of the file record indicates that the power of attorney to Owen L. Lamb has been revoked by the assignee of the patent application on February 28, 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 Sherry D. Brinkley at 571-272- 3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

cc: SNELL & WILMER LLP
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA CA 92626

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MICHAEL BUCHENHORNER PA
8540 SW 83 STREET
SUITE 100
MIAMI FL 33143

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AUG 21 2008

OFFICE OF PETITIONS

In re
Brink, et al.
Application No. 10/241,609
Filed: September 10, 2002
Patent No. 7,324,307
Issued: January 29, 2008

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed May 29, 2008, and again on June 30, 2008.

The fee deficiency submission under 37 CFR 1.28 of $720, representing the difference between the small entity and large entity issue fee, is hereby **accepted**.

The change of status to large entity has been entered.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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NOV 19 2002

#3

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

In re Application of	:	
Kim C. Krumhar et al	:	
Serial No.: 10/241,616	:	PETITION TO MAKE SPECIAL
Filed: September 9, 2002	:	
Attorney Docket No.: METAG.023C1	:	

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

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

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230.

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

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Elizabeth Collard Richter
Collard & Roe P.C.
1077 Northern Blvd
Roslyn, NY 11576

APR 2 6 2005

In re Application of: Spector, Donald :
: NOTICE OF WITHDRAWAL
Application No. 10/241,620 : FROM ISSUE
Filed: 11 September 2002 : UNDER 37 CFR 1.313
Attorney Docket No. F.11228 :

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 above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed October 19, 2004, are hereby vacated.

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

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 should be directed to David Porta at (571) 272-2444

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

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

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HAHN AND MOODLEY LLP
P.O. BOX 52050
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of :
Konstantin Anisimovich et al :
Application No. 10/241,638 : DECISION ON PETITION
Filed: September 12, 2002 :
Attorney Docket No. ABBYY-U02 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 12, 2009, to revive the above-identified application.

The petition is **DISMISSED.**

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

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed June 20, 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 September 21, 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 lack items (3).

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

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

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

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

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

As to Period (1):

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

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

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on September 21, 2006. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Sergey Platonov was counsel of record at the time of abandonment, Sergey Platonov should explain why this application became abandoned while it was under his control and what efforts he made to further

reply of itself and with whom this matter was discussed outside of Sergey Platonov. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Sergey Platonov and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons responsible for handling this application, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 3 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons handling this application and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

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

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

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

Any renewed petition may be addressed as follows:

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

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

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

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

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Sergey Platonov
ABBYY Software House
11-1 Kasatkina Str.
Moscow, 129301
RUSSIAN FEDERATION

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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
10/241,638	09/12/2002	Konstantin Anisimovich	ABBYY-U02

CONFIRMATION NO. 8898

POWER OF ATTORNEY NOTICE

Sergey Platonov
ABBYY Software House
11-1 Kasatkina Str.
Moscow, 129301
RUSSIAN FEDERATION

Date Mailed: 10/23/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/12/2009.

- 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).

/idingle/

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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/241,638	09/12/2002	Konstantin Anisimovich	ABBYY-U02

CONFIRMATION NO. 8898

HAHN AND MOODLEY LLP
P.O. BOX 52050
MINNEAPOLIS, MN 55402

POA ACCEPTANCE LETTER

OC000000038404488

Date Mailed: 10/23/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/12/2009.

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.

/idingle/

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

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OFFICE OF PETITIONS

HAHN AND MOODLEY LLP
P.O. BOX 52050
MINNEAPOLIS MN 55402

In re Application of :
Konstantin Anisimovich et al :
Application No. 10/241,638 : ON PETITION
Filed: September 12, 2002 :
Attorney Docket No. ABBYY-U02 :

This is a decision on the renewed petition under 37 CFR 1.137(b) filed December 1, 2009, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center AU 2624 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

John E. Harrity
Suite 300
11240 Waples Mill Road
Faifax VA 22030

In re Application of :
Walter EASTERBROOK, et al. :
Application No. 10/241,655 : DECISION ON PETITION
Filed: September 12, 2002 : TO MAKE SPECIAL
For: SYSTEM AND METHOD FOR CONNECTING :
COMPONENTS IN AN ENTERTAINMENT SYSTEM :

This is a decision on the petition to make special filed August 26, 2003 under MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a statement and a copy of a driver's license for Walter Easterbrook, evidencing that he is over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, DC 20231
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Pager No. 4

John E. Harrity
Suite 300
11240 Waples Mill Road
Fairfax VA 22030

MAIL

NOV - 6 2003

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2600**

In re Application of:
EASTERBROOK, WALTER
Application No.10/241,698
Filed: September 12, 2002
For: **SYSTEMS AND METHODS FOR ROUTING SIGNALS IN AN ENTERTAINMENT SYSTEM**

DECISION ON PETITION TO MAKE SPECIAL
37 CFR 1.102

This is a decision on the petition under 37 C.F.R. §1.102, filed August 26, 2003, to make the above-identified application special.

Petitioner requests that the above-identified application by made special under the accelerated examination procedure set forth in M.P.E.P. §708.02, Section IV: Applicant's Age.

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

The petition includes a declaration showing that he 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 applications, and he should make a rigid search for such, 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, she should consider such application simultaneously with this application and should state in the official letter of such application that she 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.

The petition is ***GRANTED*** the extent indicated.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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MAR 28 2007

OFFICE OF PETITIONS

In re Patent No. 6,980,176
Issued: December 27, 2005
Application No. 10/241,699
Filed: September 12, 2002
Attorney Docket Number: **02975.000051**

ON PETITION

This is a decision on the petition, filed May 24, 2006, under 37 CFR 1.183, to correct the assignee's name on the front of the Patent, which is being treated as a request under 37 CFR 3.81(b)[1]

The petition is **GRANTED**.

Petitioner states that the assignee is CANON KABUSHIKI KAISHA, and that the failure to include the correct assignee name on the Fee(s) Transmittal form PTOL-85(b) was inadvertent. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct 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.

The request is accompanied by a certificate of correction. Office assignment records reflect that CANON KABUSHIKI KAISHA is the assignee of record. Although the fee for the certificate of correction, as required under 37 CFR 3.81(b) was not submitted

[1] *See* Official Gazette of June 22, 2004

petitioner's deposit account no. 06-1205 will be charged in the amount of $100.00 for the certificate of correction.

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.

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 matter 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/11/07

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction on Patent No.: 6980176

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

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

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

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

Comments:

_____

_____

_____

_____

_____

SPE

2629
Art Unit

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SUITE 500
ARLINGTON VA 22201-2909

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JAN 04 2008

OFFICE OF PETITIONS

In re Application of :
Redford, et al. : DECISION ON PETITION
Application No. 10/241,723 :
Filed: September 11, 2002 :
Atty. Dkt. No.: 02-5004 :
For: CABIN TELECOMMUNICATION :
UNIT :

This decision is in response to the petition under 37 CFR 1.47 filed October 30, 2007. This matter is, *sua sponte*, being properly treated under 37 CFR 1.183 as a petition to waive the requirements of 37 CFR 1.131. The required petition fee of $400.00, rather than $130.00 has been charged to petitioners' deposit account, as authorized.

The petition under 37 CFR 1.183 for waiver of requirements under 37 CFR 1.131 is **GRANTED**.

In accordance with 37 CFR 1.183, "[i]n an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed."

Also, 37 CFR 1.131(a) states, in part: "[w]hen any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based."

In accordance with MPEP 715.04, "[w]here one or more of the named inventors of the subject matter of the rejected claim(s) (who had originally signed the oath or declaration for patent application under 37 CFR 1.63) is now unavailable to sign an affidavit or

declaration under 37 CFR 1.131, the affidavit or declaration under 37 CFR 1.131 may be signed by the remaining joint inventors provided a petition under 37 CFR 1.183 requesting waiver of the signature of the unavailable inventor be submitted with the affidavit or declaration under 37 CFR 1.131. Proof that the non-signing inventor is unavailable or cannot be found similar to the proof required for a petition under 37 CFR 1.47 must be submitted with the petition under 37 CFR 1.183 (see MPEP § 409.03(d))."

Petitioners herein request that a declaration under 37 CFR 1.131 be permitted without the signature of non-signing inventor Zahalka. Petitioners have established that despite diligent effort to procure the signature of the non-signing inventor on the 1.131 declaration, the non-signing inventor has not executed the declaration. In view thereof, the 1.131 declaration may be entered without the signature of non-signing inventor Zahalka.

This application is being directed to Technology Center 2100 for further processing.

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

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OFFICE OF PETITIONS

In re Application of :
Redford, et al. : DECISION ON PETITION
Application No. 10/241,723 :
Filed: September 11, 2002 :
Atty. Dkt. No.: 02-5004 :
For: CABIN TELECOMMUNICATION :
UNIT :

This decision is in response to the petition under 37 CFR 1.47 filed September 2, 2008. This matter is, *sua sponte*, being properly treated under 37 CFR 1.183 as a petition to waive the requirements of 37 CFR 1.131. The required petition fee of $400.00, rather than $130.00, has been charged to petitioners' deposit account, as authorized.

The petition under 37 CFR 1.183 for waiver of requirements under 37 CFR 1.131 is **GRANTED**.

In accordance with 37 CFR 1.183, "[i]n an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed."

Also, 37 CFR 1.131(a) states, in part: "[w]hen any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based."

In accordance with MPEP 715.04, "[w]here one or more of the named inventors of the subject matter of the rejected claim(s) (who had originally signed the oath or declaration for patent application under 37 CFR 1.63) is now unavailable to sign an affidavit or

declaration under 37 CFR 1.131, the affidavit or declaration under 37 CFR 1.131 may be signed by the remaining joint inventors provided a petition under 37 CFR 1.183 requesting waiver of the signature of the unavailable inventor be submitted with the affidavit or declaration under 37 CFR 1.131. Proof that the non-signing inventor is unavailable or cannot be found similar to the proof required for a petition under 37 CFR 1.47 must be submitted with the petition under 37 CFR 1.183 (see MPEP § 409.03(d))."

Petitioners herein request that a declaration under 37 CFR 1.131 be permitted without the signatures of non-signing inventors Redford and Marakami. Petitioners have established that despite diligent effort to procure the signature of the non-signing inventors on the 1.131 declaration, the non-signing inventors have not executed the declaration. In view thereof, the 1.131 declaration may be entered without the signature of non-signing inventors Redford and Marakami.

This application is being directed to Technology Center 2100 for further processing.

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

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Date Mailed : October 3,2005

Patent No. : 6,817,255
Patent Issued : November 16,2004
Docket No. : 1201.66835

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 .

The alleged error(s) CLAIMS, Claim 19 does not contain the method step as stated in claim 20. The change would create an antecedent basis.the patent is printed in accordance with the record. In view of the foregoing, your request, in this matter(s), is hereby denied.

Further consideration/reconsideration will be given upon receipt of a Request for Reconsideration under, under the provision of U.SC.254 or 255 (C.F.R. 1.322 or 1.323), accompanied by the appropriate response or fee of $100, which should be directed to Decisions & Certificates of Correction Branch.

Ennis Young
Legal Instrument Examiner
(703) 308-9390 ext.117

For Cecelia B. Newman, Supervisor
Decisions & Certificates of Correction Branch
(703) 308-9390 ext.102 or (703) 303-8309 (Receptionist)

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WHITE & CASE LLP
PATENT DEPARTMENT
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NEW YORK, NY 10036

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OFFICE OF PETITIONS

In re Application of :
Adam J. Grove, et al. :
Application No. 10/241,795 : ON PETITION
Filed: September 10, 2002 :
Attorney Docket No. 10317-016-999 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 22, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137 (b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed November 22, 2004 is accepted as having been unintentionally delayed.

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

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

The application matter is being referred to Technology Center 2100, Art Unit 2141 for further processing.

Retta Williams

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

cc: Wendi R. Schepler
White & Case LLP
3000 EL Camino Real
5 Palo Alto Sq., 10th Fl.
Palo Alto, CA 94306

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OFFICE OF PETITIONS

In re Application of :
Martin De Graaf, et al. :
Application No. 10/241,799 : ON PETITION
Filed: September 11, 2002 :
Attorney Docket No. U 014206-4 :

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

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

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

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

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Weaver Austin Villeneuve & Sampson LLP - IGT
Attn: IGT
P.O. Box 70250
Oakland, CA 94612-0250

Mail Date: 04/20/2010

Applicant	: Mark D. Jackson	: DECISION ON REQUEST FOR
Patent Number	: 7618317	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/241,804	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/10/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **546** 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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WEBB ZIESENHEIM LOGSDON ORKIN & HANSON
700 KOPPERS BUILDING
436 SEVENTH AVE
PITTSBURGH PA 15219-1845

In re Application of :
Maxel, et al. :
Application No. 10/241,826 : ON PETITION
Filed: September 10, 2002 :
Attorney Docket No. 4171-021648 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 6, 2006.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed May 25, 2005. This Office action set a shortened statutory period for reply of one (1) month. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above identified application became abandoned on June 26, 2005. A Notice of Abandonment was mailed on December 27, 2005.

Petitioner states that a search of the file jacket and docket records indicates that the Office action was not received for this application. In addition, petitioner has included a copy of a docketing record for the instant application.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3] Here, as the Office action set a period for reply of one month, the Office requests that petitioner submit a docket record showing all his replies docketed for the date of June 25, 2005.

If petitioner can not establish that the Notice of Allowance was not received, petitioner may revive the application pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently $1500 ($1500, or $750 for a small entity); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II).

[3] Id (emphasis added).

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700 KOPPERS BUILDING
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PITTSBURGH PA 15219-1845

In re Application of :
Maxel, et al. :
Application No. 10/241,826 : ON PETITION
Filed: September 10, 2002 :
Attorney Docket No. 4171-021648 :

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 15, 2006.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed May 25, 2005. This Office action set a shortened statutory period for reply of one (1) month. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above identified application became abandoned on June 26, 2005. A Notice of Abandonment was mailed on December 27, 2005. Applicants filed a petition to withdraw the holding of abandonment on February 6, 2006. Applicants stated that a search of their file jacket and docket records indicated that the Office action was not received for this application. In addition, applicants included a copy of their file jacket and docketing record for the instant application. The docket record consisted of a 1 page print-out of the prosecution history for the instant application.

The petition was dismissed in a decision mailed on March 14, 2006. The decision pointed out that Applicants did not submit a proper docketing record as set forth in MPEP 711.03(c)(II). As stated in § 711.03(c)(II), a proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[1] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action **must** be submitted..."[2] The decision stated that because the Office action set a period for reply of one month, Petitioner should submit a docket record showing all his replies docketed for the date of June 25, 2005.

On renewed petition, Petitioner states that she reviewed all docket records having a due date of June 25, 2005, and of those 23 records, none were for the present application. Petitioner also points out that it was too burdensome a task to submit all of the records with confidential information redacted. Lastly, Petitioner argues that the cited MPEP language only suggests an "example" of compliance for an acceptable docket record.

Petitioner's argument has been considered, but is not persuasive. The phrase "for example" refers to the applicable date the Office requests for the docketing records. In other words, if an Office action set a one month period for reply (as did the instant Office action), then a docket record showing all replies docketed for a date one month from the mail date must be submitted. Whereas if an Office action set a three month period for reply, then a docket record showing all replies docketed for a date three months from the mail date must be submitted. This is further demonstrated by the use of the word "must" in the same sentence. Clearly the Office would not use the word "must" if that was just one example of proper compliance.

If it is too burdensome for petitioner to submit a proper docket report as set forth in MPEP 711.03(c)(II), petitioner may revive the application pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently $1500 ($1500, or $750 for a small entity); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

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

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

---

[1] MPEP 711.03(c)(II).

[2] Id (emphasis added).

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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In re Application of :
Maxel, et al. :
Application No. 10/241,826 : ON PETITION
Filed: September 10, 2002 :
Attorney Docket No. 4171-021648 :

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed August 18, 2006.

The petition under 37 CFR 1.181 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 25, 2005. This Office action set a shortened statutory period for reply of one (1) month. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above identified application became abandoned on June 26, 2005. A Notice of Abandonment was mailed on December 27, 2005. Applicants filed a petition to withdraw the holding of abandonment on February 6, 2006. Applicants stated that a search of their file jacket and docket records indicated that the Office action was not received for this application. In addition, applicants included a copy of their file jacket and docketing record for the instant application. The docket record consisted of a 1 page print-out of the prosecution history for the instant application.

The petition was dismissed in a decision mailed on March 14, 2006. The decision pointed out that Applicants did not submit a proper docketing record as set forth in MPEP 711.03(c)(II). As stated in § 711.03(c)(II), a proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[1] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action **must** be submitted..."[2] The decision stated that because the Office action set a period for reply of one month, Petitioner should submit a docket record showing all his replies docketed for the date of June 25, 2005.

On renewed petition filed May 15, 2006, Petitioner stated that she reviewed all docket records having a due date of June 25, 2005, and of those 23 records, none were for the present application. Petitioner also pointed out that it was too burdensome a task to submit all of the records with confidential information redacted. Lastly, Petitioner argued that the cited MPEP language only suggests an "example" of compliance for an acceptable docket record.

The petition was again dismissed in a decision mailed on August 1, 2006.

With the instant renewed petition, Petitioner has submitted a proper docket report.

In view thereof, the holding of abandonment is **WITHDRAWN**.

The matter is being forwarded to Group Art Unit 1714 for re-mailing of the May 25, 2005 Office action, setting a new period for reply.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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[1] MPEP 711.03(c)(II).

[2] Id (emphasis added).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

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SEP 23 2005

OFFICE OF PETITIONS

In re Application of	:	
Hariharan et al.	:	
Application No. 10/241,836	:	DECISION GRANTING PETITION
Filed: September 12, 2002	:	UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 037003-0291807	:	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 September 12, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

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 November 12, 2002 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

Additionally, the instant pending nonprovisional application was filed within twelve months of provisional Application No. 60/331,187, which was filed on November 9, 2001, for which priority is claimed. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. § 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to Paralegal Liana Chase at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 1644 for appropriate action on the amendment submitted September 12, 2005, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FITCH EVEN TABIN & FLANNERY
P O BOX 65973
WASHINGTON, DC 20035

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MAR 2 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Chien-Hsuan Han et al	:	
Application No. 10/241,837	:	DECISION GRANTING PETITION
Filed: September 12, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 7483/73464	:	

This is a decision on the petition, filed March 7, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 3, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1615 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Mar9\241837.wpd

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

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DELPHINE JAMES
2656 SOUTH LOOP WEST, SUITE 170
HOUSTON, TX 77054

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DEC 13 2007

OFFICE OF PETITIONS

In re Application of :
Reginald Craig Moses :
Application No. 10/241,852 : ON PETITION
Filed: September 13, 2002 :
Attorney Docket No. DMJ0213 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 20, 2007 and supplemented on October 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 12, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 13, 2005.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $225 extension of time submitted with the petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

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

This matter is being referred to Technology Center AU 3732 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MICHAEL A. MANN
NEXSEN PRUET JACOBS & POLLARD
PO DRAWING 2426
COLUMBIA, SC 29202-2426

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SEP 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
John Ducate Sr.	:	
Application No. 10/241,868	:	ON PETITION
Filed: September 12, 2002	:	
Attorney Docket No. 23541-53	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 21, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 12, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 13, 2005.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1,080.00 extension of time submitted with the petition on July 21, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This matter is being referred to Technology Center AU 1761.

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

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Paper No. 5

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FEB 07 2003

OFFICE OF PETITIONS

SIDLEY AUSTIN BROWN & WOOD LLP
787 Seventh Avenue
New York, NY 10019

In re Application of
Dittrich, et al.
Application No. 10/241,869
Filed: September 10, 2002
Attorney Docket No.: DT-6286
For: PROPELLANT MAGAZINE FOR A PROPELLANT-OPERATED SETTING TOOL AND A PROPELLANT-OPERATED SETTING TOOL

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed November 4, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given ONE MONTH 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 September 10, 2002 without an executed oath or declaration and naming T. Dittrich, M. Grazioli, T. Sperrfechter, M. Scalet, and G. Ehmig as joint inventors. Accordingly, on September 26, 2000, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

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

The instant petition lacks item (1) set forth above. Petitioner has failed to establish that the non-signing inventor cannot be reached. The declaration of Ronald Wildi indicates that upon retirement, the non-signing inventor intended to travel to Scandinavia until the beginning of 2003. Declarant further states that the non-signing inventor was not "available" when the instant application was prepared.

Petitioner has failed to establish that the inventor cannot be reached, petitioner has merely indicated that the non-signing

inventor is believed to be on travel.

Applicant's attention is directed to MPEP 409.03(d) which states "[t]he fact that a non-signing inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47." This petition is accordingly dismissed as inappropriate.

Any renewed petition must be supported by evidence which sufficiently establishes that despite diligent effort, the non-signing 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 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, telephone directories, and international registries should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

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

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

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

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JUN 0 2 2003

OFFICE OF PETITIONS

SIDLEY AUSTIN BROWN & WOOD LLP
787 Seventh Avenue
New York, NY 10019

In re Application of Dittrich, et al. Application No. 10/241,869 Filed: September 10, 2002 Attorney Docket No.: DT-6286 For: PROPELLANT MAGAZINE FOR A PROPELLANT-OPERATED SETTING TOOL AND A PROPELLANT-OPERATED SETTING TOOL	DECISION NOTING JOINDER OF LEGAL REPRESENTATIVE OF DECEASED INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT

This is in response to the renewed petition under 37 CFR 1.47(a), filed May 16, 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).

No additional petition fee is due in this matter. The petition fee submitted herewith has been refunded to the Deposit Account referenced in the instant renewed petition. However, petitioner requires a two (2) month extension of time in accordance with 37 CFR 1.136(a). A two (2) month extension of time has been charged to the Deposit Account referenced in the instant renewed petition.

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
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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OFFICE OF PETITIONS

SPRINKLE IP LAW GROUP
1301 W. 25TH STREET
SUITE 408
AUSTIN TX 78705

In re Application of :
Jeremy S. De Bonet :
Application No. 10/241,876 : NOTICE
Filed: September 12, 2002 :
Attorney Docket No. MOBI1100-1 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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 Terri Johnson at (571) 272-2991.

Chris Bottorff
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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VISTEON
C/O BRINKS HOFER GILSON & LIONE
P. O. BOX 10395
CHICAGO, IL 60610

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SEP 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Anne Marie Sullivan, et al. :
Application No. 10/241,898 : ON PETITION
Filed: September 12, 2002 :
Attorney Docket No. 10541-1272 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 11, 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 October 22, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 23, 2004.

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

The application file is being forwarded to the Publishing Division 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 PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 3

WELLS ST. JOHN ROBERTS GREGORY &
MATKIN P.S.
601 W. FIRST AVENUE
SUITE 1300
SPOKANE, WA 99201-3828

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OFFICE OF PETITIONS

In re Application of
David L. Dickerson et al
Application No. 10/241,923
Filed: September 11, 2002
Attorney Docket No. MI22-2122

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 2800.

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

10/241,923

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ———

DATE : 1/25/05

TO SPE OF : ART UNIT 2814

SUBJECT : Request for Certificate of Correction on Patent No.: 6710420 B2

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

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

Virginia Tolbert

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 has been made in the Examiner Amendment paper No. 20031002, Hower, the limitation was omitted in the patent.

SPE — 2814 Art Unit

04 APR 2003
UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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CARL L. JOHNSON
SUITE 285
ONE WEST WATER STREET
ST. PAUL, MINNESOTA 55107-2033

In re Application of	:	
GROSS	:	
Application No.: 10/241,949	:	DECISION ON
PCT No.: PCT/US00/33608	:	
Int. Filing Date: 12 December 2000	:	PETITION UNDER
Priority Date: 13 December 1999	:	
Attorney Docket No.: 5651	:	37 CFR 1.137(b)
For: APPARATUS FOR COLLECTING LIQUID RUN OFF AND DEBRIS/WASHING FACILITY	:	

This decision is in response to applicant's "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) (SMALL ENTITY)" filed 13 September 2002.[1]

BACKGROUND

On 12 December 2000, applicant filed international application PCT/US00/33608, which claimed a priority date of 13 December 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 14 June 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 13 July 2001, which was within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 13 June 2002.

On 13 September 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an assertion of small entity status, a declaration of the inventor, an authorization to charge additional fees to Deposit Account 10-0210; and the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) (SMALL ENTITY)".

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;

---

[1]Applicant requests that the application be given the filing date of 12 September 2002. However, the Express Mail "Date In" on the Addressee Copy of the Express Mail Label ET110380544US (copy attached) could not be determined. Consequently, the papers were accorded the receipt date as the filing date. 37 CFR 1.10(a).

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee for a small entity on 13 September 2002.

As to item (2), applicant submitted the petition fee for a small entity on 13 September 2002.

With regard to item (3), petitioner has provided the required statement.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

The declaration filed 13 September 2002 complies with 37 CFR 1.497(a)-(b). The surcharge for a small entity of $65 under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date was charged to Deposit Account No. 10-0210.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including according the application a 35 U.S.C. 371(c) date of **13 September 2002**.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

Enc.: Copy of Addressee Copy of Express Mail Label number ET110380544US

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 4

WELLS ST JOHN ROBERTS
GREGORY & MATKIN P.S.
601 W. FIRST AVENUE
SUITE 1300
SPOKANE, WA 99201-3828

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JAN 07 2003

OFFICE OF PETITIONS

In re Application of :
David L. Dickerson et al :
Application No. 10/241,950 : NOTICE
Filed: September 11, 2002 :
Attorney Docket No. MI22-2115 :

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 2814.

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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APR -2 2004

Paper No. 15

In re Application of
Gordon P. Becker *et al*
Application No. 10/241,963
Filed: September 11, 2002
Attorney Docket No. 68053 CCD

: DECISION ON PETITION

This is a decision on the petition filed on March 8, 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 July 28, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that this application is not abandoned because a proper reply to the Office letter in question was in fact filed on November 28, 2003. Petitioners further allege that the reply was timely because it was accompanied by a petition for extension of time and the fee of $110.00 for a one month extension. Petitioners support these allegations by furnishing a copy of a reply, a copy of the petition for extension of time, and a copy of an itemized filing receipt for these items showing that they were in fact received in the Office on November 28, 2003, a date within the period set by the Office letter in question for filing a reply, as extended by one month. Based upon this evidence, it is clear that this application is not abandoned. It is also noted that the fee for the extension has in fact been received by the Office and applied.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application will be forwarded to the examiner for action on the amendment filed November 28, 2003.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Cooper & Dunham LLP
1185 Avenue of the Americas
New York, NY 10036

UNITED STATES PATENT AND TRADEMARK OFFICE

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PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK CA 94026

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APR 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Allan S. Lau, et al. :
Application No. 10/241,970 : DECISION ON PETITION
Filed: September 11, 2002 : TO WITHDRAW
Attorney Docket No. 54099-8002.US04 : FROM RECORD
:

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

The request is **APPROVED**.

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

The request was signed by Peter J. Dehlinger on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed July 11, 2006 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: CYTOPHARM, INC.
6F, #6 SEC. 1, JUNG-SHING ROAD
WUGU SHIANG
TAIPEI, 248
TIAWAN

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

#5

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

In re Application of	:
William Asiedu et al	:
Serial No.: 10/241,973	: PETITION TO MAKE SPECIAL
Filed: September 12, 2002	:
Attorney Docket No.: 787454-2001	:

This is in response to applicants' petition filed September 12, 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, X. Therefor the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230.

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

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Chicago, Illinois 60610

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JUN 07 2007

OFFICE OF PETITIONS

In re Application of
Nishiyama
Application No. 10/241,989
Filed: Sepptember 11, 2002
Attorney Docket NO. 9281-4393 (N US01061)

: DECISION HOLDING PTA REQUEST
: IN ABEYANCE UNTIL AFTER ISSUE
: DATE

This decision is in response to applicants' REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT"[1] timely filed on December 28, 2006 requesting that the Office adjust the PTA at the time of the mailing of the notice of allowance to at least 1333 days.

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, 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 patentee is entitled to for Office failure to issue the patent within 3 years. See § 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 3 years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other reasons for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Applicants are reminded 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 also *Revision of Patent Term Extension and Patent Term Adjustment Provisions*; *Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

[1]Issue fee paid on December 28, 2006.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

After the mailing of this decision, this application will be forwarded to the Office of patent publications for a prompt issuance of the patent. The Office apologizes for any delays in this decision and notes that any delays in issuing the application within four months of the payment of the issue fee and all other requirements being satisfied will be added to the determination that is mailed with the issue notification letter.

The Office has assessed the $200.00 fee required of this request. No additional fees are required in considering this matter.

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

Kery A. Fries

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

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JUN 23 2008

OFFICE OF PETITIONS

In re Patent No. 7,248,445	:	
YOSHIHIRO NISHIYAMA	:	DECISION ON REQUEST
Issue Date: July 24, 2007	:	FOR RECONSIDERATION OF
Application No. 10/241,989	:	PATENT TERM ADJUSTMENT
Filed: September 11, 2002	:	
Attorney Docket No. 9281-4393	:	

This is a decision on the "PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed September 14, 2007. Patentee requests that the Patent Term Adjustment for the above-identified patent be set at 1,541 days.

The request for reconsideration of the patent term adjustment indicated in the patent is **DISMISSED**.

Patentee is given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under § 1.136.

On July 24, 2007, the above-identified application matured into U.S. Patent No. 7,248,445. The instant request for reconsideration was timely filed on September 14, 2007. The patent issued with a revised Patent Term Adjustment of 912 days.

Patentee requests that the revised Patent Term Adjustment be set at 1,541 days.[1] Specifically, patentee asserts that a period

[1] It appears that patentee incorrectly used the initial patent term adjustment of 941 days in reaching the calculation of 1,541 days.

of adjustment of 595 days[2] should be entered for the Office taking in excess of three years to issue the patent. Patentee does not dispute the number of days of patent term reduction under 37 CFR 1.704(c)(10) or adjustment under to 37 CFR 1.702(a)(1) and (a)(4).

The instant patent issued three years and 681 days after its filing date. However, any days of delay for Office issuance of the patent more than three years after the filing date of the application, 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. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f).

In this instance, the period of delay of 681 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 1,032 days attributable to grounds specified in 37 CFR 1.702(a)(1) and (a)(4). Thus, no additional period of adjustment beyond 1,032 days was entered. Accordingly, the period of 1,032 days for Office delay is correct.

In view thereof, the patent term adjustment of **912 days** indicated in the patent is correct.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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[2] The period beginning on the day after the date that is three years after the date on which the application was filing under 37 U.S.C. 111(a), September 12, 2005, and ending on the date the patent issue, July 24, 2007, is 681 days, not 595 days. See 37 CFR 1.702(b)

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

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

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Alexandria, VA 22313-1450
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DAVID M. DRISCOLL
1201 CANTON AVENUE
MILTON MA 02186

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APR 26 2005

OFFICE OF PETITIONS

In re Application of
Andry Lagsdin
Application No. 10/242,000
Filed: September 12, 2002
Attorney Docket No.: S1174/7023

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 6, 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.

This application became abandoned February 23, 2005 for failure to timely pay the issue fee on or before February 22, 2005. Accordingly, a Notice of Abandonment was mailed April 4, 2005.

Petitioner files the instant petition under 37 CFR 1.137(b). [1] Pursuant to 37 CFR 1.137(b) however, the instant petition lacks item (1) of the regulation. Effective December 8, 2004,

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

the issue fee was set at $700.00 for a small entity and not $685.00 as indicated in the petition. Therefore and since no authorizations for debiting a deposit account for any deficiencies have been granted, the petition fee has not been paid.

In view of the above, the application will remain in an abandoned status until such time as an additional $15.00 has been paid for the petition fee.

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

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

By FAX: (703) 872-9306

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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DAVID M. DRISCOLL
1201 CANTON AVENUE
MILTON MA 02186

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OFFICE OF PETITIONS

In re Application of
Andry Lagsdin :
Application No. 10/242,000 : ON PETITION
Filed: September 12, 2002 :
Attorney Docket No.: S1174/7023 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 5, 2005, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned February 23, 2005 for failure to timely pay the issue fee on or before February 22, 2005. Accordingly, a Notice of Abandonment was mailed April 4, 2005. Petitioner filed a petition and an Issue Fee Transmittal on April 6, 2005 with a payment in the of amount of $985.00, for the amount of the issue fee and publication fee. However, effective December 8, 2004, the issue fee was set at $700.00 for a small entity and not $685.00 as indicated in the petition. Therefore and since no authorizations for debiting a deposit account for any deficiencies have been granted, the petition was dismissed in a decision mailed April 26, 2005.

Comes now petitioner with this renewed petition under the unintentional standard and additional fees in payment of the issue fee.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

(3) a statement that the entire delay in filing the required reply from the due date

for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

All other requirements having been met, this matter is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

12/02/2007

DATE : 11-15-01

Paper No.: __

TO SPE OF : ART UNIT 2800

SUBJECT : Request for Certificate of Correction on Patent No.: 6789412

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.

Please 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.

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

Comments:

EDWARD J. GLICK
SUPERVISORY PATENT EXAMINER

2882
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark

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

WEI TE CHUNG
FOXCONN INTERNATIONAL, INC.
1650 MEMOREX DRIVE
SANTA CLARA CA 95050

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FEB 0 5 2003

OFFICE OF PETITIONS

In re Application of
Korsunsky et al.
Application No. 10/242,024
Filed: September 11, 2002
For: STACKED MODULAR JACK ASSEMBLY HAVING IMPROVED ELECTRIC CAPABILITY

DECISION GRANTING PETITION

This is a decision on the petition filed December 9, 2002, requesting that the above-identified application be accorded a filing date of September 11, 2002, with Figure 10 as part of the original disclosure.

On September 11, 2002, applicants filed the above-identified application. On October 2, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of September 11, 2002, and advising applicants that Figure 10 as described in the specification appeared to have been omitted.

In response, on December 9, 2002, applicants filed the present petition, the petition fee, and a copy of applicants' postcard receipt acknowledging receipt of 10 sheets of drawings on September 11, 2002. Additionally, applicants submitted a copy of Figure 10 with the present petition.

Upon review of the record, Figure 10, deposited on September 11, 2002, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on September 11, 2002, included Figure 10, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Figure 10, was complete on filing and will be granted a filing date of September 11, 2002.

Accordingly, the petition is granted.

The Notice of October 2, 2002, was sent in error and is hereby vacated. Accordingly, the $130.00 petition fee is unnecessary and will be refunded by treasury check.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of September 11, 2002, using Figures 1-9 submitted on that date, and Figure 10, submitted on December 9, 2002, and the mailing of a corrected filing receipt. The Office records should indicate that 10 sheets of drawings were submitted on filing.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Ralf Roddiger	: DECISION ON REQUEST FOR
Patent Number	: 7601684	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/242,061	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **652** 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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CHICAGO IL 60606

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SEP 16 2009

OFFICE OF PETITIONS

In re Application of :
Brumfield, et al. :
Application No. 10/242,062 : ON APPLICATION FOR
Filed: September 12, 2002 : PATENT TERM ADJUSTMENT
Atty Docket No. 02-926 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)-(d), filed May 14, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand eight hundred ninety-nine(1,899) days, not one thousand two hundred sixty-eight(1,268) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent or even the filing date of the request for continued examination is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

A registered practitioner is under a general obligation of candor and good faith in practice before the Office. In order to comply with this duty and where the correct adjustment is thought to be less than indicated by the Office, a letter should

---

[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.

be filed indicating that the term adjustment is thought to be longer than appropriate.

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 Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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CHICAGO, IL 60606

Mail Date: 04/20/2010

Applicant	: Harris Brumfield	: DECISION ON REQUEST FOR
Patent Number	: 7606748	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/242,062	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1875** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICE OF LAWRENCE E LAUBSCHER, JR
1160 SPA RD
SUITE 2B
ANNAPOLIS, MD 21403

COPY MAILED

OCT 25 2004

OFFICE OF PETITIONS

In re Application of :
Thomas Aggerstam, et al. :
Application No. 10/242,070 : ON PETITION
Filed: September 12, 2002 :
Atty Docket No. 23164 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 18, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2828 for further processing of the request for continued examination under 37 CFR 1.114 filed October 22, 2004.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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STATTLER JOHANSEN & ADELI
P O BOX 51860
PALO ALTO, CA 94303

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APR 15 2004

OFFICE OF PETITIONS

In re Application of :
Haiying Xia et al :
Application No. 10/242,088 : DECISION GRANTING PETITION
Filed: September 11, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. SBIO.P0001 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 17, 2004, to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

The instant nonprovisional application is the subject of an application filed in an eighteen month publication country on September 11, 2003.[1] However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

(1) the required reply which is met by the notification of such filing in a foreign country or 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.

---

[1] A search of the USPTO PALM Intranet indicates that a PCT Application No. PCT/US03/28771 was filed September 11, 2003.

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 accompanies this decision on petition.

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

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 9

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

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APR 2 6 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Liubo Hong et al :
Application No. 10/242,091 :
Filed: September 11, 2002 :
Attorney Docket No. PA2516US :

This is a decision on the petition under 37 CFR 1.137(b), filed October 31, 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 non-final Office action mailed December 31, 2002, 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 April 1, 2003.

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 2652 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Carr & Ferrell, LLP
2200 Geng Road
Palo Alto, CA 94303

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JUN 13 2005

OFFICE OF PETITIONS

In re Application of :
Liubo Hong, et. al. :
Application No. 10/242,091 : ON PETITION
Filed: September 11, 2002 :
Attorney Docket No. PA2516US :

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

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

In response to the Notice of Allowance mailed January 11, 2005, petitioner hereby submits an authorization to charge, the listed deposit account, $1,500 for the petition to revive fee, $1,400 for the issue fee, $6 for two (2) advance soft copies, and provided the statement of unintentional delay as required by 37 CFR 1.137(b).

As authorized, the above fees have been charged to petitioner's deposit account.

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

The Revocation of Power of Attorney and Change of Correspondence Address filed April 22, 2005, has been acknowledged, but not made of record. The revocation of power of attorney or authorization of agent must be signed by a **principal attorney of record**, an agent, the inventor(s), or an assignee of entire right and interest. A courtesy copy of this decision is being mailed to the petitioner. Nevertheless, all future correspondence regarding this application will be directed solely to the address of record until otherwise instructed.

The application file is being referred to the Office of Publications for further processing into a patent.

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

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

cc: Joshua C. Harrison
20511 Lake Forest Drive
Suite E118-G
Lake Forest, CA 92630

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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STATTLER JOHANSEN & ADELI
P O BOX 51860
PALO ALTO, CA 94303

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APR 15 2004

OFFICE OF PETITIONS

In re Application of :
Haiying Xia et al :
Application No. 10/242,092 : DECISION GRANTING PETITION
Filed: September 11, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. SBIO.P0002 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 17, 2004, to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

The instant nonprovisional application is the subject of an application filed in an eighteen month publication country on September 11, 2003.[1] However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

(1) the required reply which is met by the notification of such filing in a foreign country or 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.

---

[1] A search of the USPTO PALM Intranet indicates that a PCT Application No. PCT/US03/28772 was filed September 11, 2003.

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 accompanies this decision on petition.

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

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PAUL S. MADAN
MADAN MOSSMAN & SRIRAM PC
2603 AUGUSTA, SUITE 700
HOUSTON, TX 77057-1130

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OCT 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Houman M. Shammai :
Application No. 10/242,112 : DECISION GRANTING PETITION
Filed: September 12, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 584-27436-US :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 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 3672 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

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

Barry E. Bretschneider
Morrison & Foerster LLP
Suite 300
1650 Tysons Blvd.
McLean VA 22012

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JAN 2 2 2003

OFFICE OF PETITIONS

In re Application of
Okamura, et al.
Application No. 10/242,141
Filed: September 12, 2002
Attorney Docket No. 356022001411
For: CUTTING TOOL COATED WITH DIAMOND

DECISION DISMISSING PETITION

This is a decision on the petition entitled, "PETITION REQUESTING FILING DATE," filed October 25, 2002, requesting in effect partial withdrawal of the Notice of Incomplete Nonprovisional Application (Notice) insofar as it pertains to the lack of drawing figures. The petition will be treated under 37 CFR 1.53(e).

The petition under 37 CFR 1.53 is **DISMISSED**.

The application was deposited on September 12, 2002. On September 30, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that the papers deposited on September 12, 2002 had not been accorded a filing date because the papers filed on that date did not include drawings.

Petitioners request that the above-identified application be accorded a filing date of September 12, 2002 on the basis that 10 sheets of drawing figures were received in the Patent and Trademark Office (PTO) on September 12, 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 12, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 10 sheets of formal drawings.

The return postcard constitutes *prima facie* evidence that 10 sheets of formal drawing figures were filed on September 12, 2002. MPEP 503. Unfortunately, the copy of the 10 sheets of formal drawing figures submitted with the instant petition have been misplaced and cannot be located in the application file. The undersigned requests that petitioners submit another copy of the 10 sheets of formal drawing figures to her attention. The application cannot be processed until the 10 sheets of formal drawing figures are present in the application file.

No petition fee has been or will be charged in connection with this matter.

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231
Attn: E. Shirene Willis

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

By hand:

Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202
Attn: E. Shirene Willis

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Barry E. Bretschneider
Morrison & Foerster LLP
Suite 300
1650 Tysons Blvd.
McLean VA 22012

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MAR 3 1 2003

OFFICE OF PETITIONS

In re Application of
Okamura, et al.
Application No. 10/242,141
Filed: September 12, 2002
Attorney Docket No. 356022001411
For: CUTTING TOOL COATED WITH DIAMOND

DECISION DISMISSING PETITION

This is a decision on the reconsideration petition entitled, " RESPONSE TO DECISION DISMISSING PETITION," filed February 7, 2003 via facsimile, requesting that the application be accorded a filing date of September 12, 2002 using the ten sheets of drawing figures resubmitted via facsimile on Febraury 7, 2003. The petition will be treated under 37 CFR 1.53(e).

The petition under 37 CFR 1.53 is **DISMISSED**.

As stated in the decision of January 22, 2003, petitioners proved that 10 sheets of formal drawings were filed on September 12, 2002 with their date stamped itemized postcard receipt. MPEP 503. However, the copy of the 10 sheets of formal drawing figures submitted with the October 25, 2002 petition were misplaced and could not be located in the application file. The undersigned requested that petitioners submit another copy of the 10 sheets of formal drawing figures to her attention.

The ten sheets of formal drawings submitted on February 7, 2003 were filed via facsimile. Under 37 CFR 1.6(d)(4), drawings may not be transmitted by facsimile.

The application cannot be processed until 10 sheets of formal drawing figures are submitted either by hand or by mail.

No petition fee has been or will be charged in connection with this matter.

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231
Attn: E. Shirene Willis

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

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202
Attn: E. Shirene Willis

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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

Paper No. 10

Barry E. Bretschneider
Morrison & Foerster LLP
Suite 300
1650 Tysons Blvd.
McLean VA 22012

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OCT 27 2003

OFFICE OF PETITIONS

In re Application of
Okamura, et al.
Application No. 10/242,141
Filed: September 12, 2002
Attorney Docket No. 356022001411
For: CUTTING TOOL COATED WITH DIAMOND

DECISION GRANTING PETITION

This is a decision on the reconsideration petition under 37 CFR 1.53(e), filed April 4, 2003, requesting in effect partial withdrawal of the Notice of Incomplete Nonprovisional Application (Notice) insofar as it pertains to the lack of drawing figures.

The application was deposited on September 12, 2002. On September 30, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that the papers deposited on September 12, 2002 had not been accorded a filing date because the papers filed on that date did not include drawings.

Petitioners request that the above-identified application be accorded a filing date of September 12, 2002 on the basis that 10 sheets of drawing figures were received in the Patent and Trademark Office (PTO) on September 12, 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 12, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 10 sheets of formal drawings.

The return postcard constitutes *prima facie* evidence that 10 sheets of formal drawing figures were filed on September 12, 2002. MPEP 503.

The petition under 37 CFR 1.53 is **GRANTED**.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **September 12, 2002**, using the copy of the 10 sheets of drawing figures submitted with the instant petition. Office records will be corrected to show that 10 sheets of drawings were present on filing.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FRELING E. BAKER
BROWN MARTIN HALLER & MCCLAIM
1660 UNION STREET
SAN DIEGO, CA 92101

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FEB 14 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Benjamin V. Booker :
Application No. 10/242,155 :
Filed: September 12, 2002 :
Attorney Docket No. 1658-036

This is a decision on the petition under 37 CFR 1.181 filed on August 8, 2005, to withdraw the holding of abandonment in the above-cited application.

The petition is **DISMISSED**.

The above-identified application became abandoned for failure to reply to the "Notice of Non-Compliant Amendment" mailed August 11, 2004, which set a period for reply of one-month from its mailing date. No response was received within the allowable period, and the application became abandoned on September 12, 2004. A Notice of Abandonment was mailed on March 4, 2005.

Petitioner argues that a reply to the non-final Office action was transmitted via facsimile, and received by the Office. As evidence of the same, petitioner provides a copy of the transmission sheet indicating that thirteen pages were transmitted to the USPTO on October 14, 2004.

The evidence is noted, but is lacking. Further to this point, 37 CFR 1.8(b) provides, that:

> (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 U.S. patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence;
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.
>
> (4) The Office may require additional evidence to determine if the correspondence was timely filed.

The instant petition did not include a copy of the certificate of transmission under 37 CFR 1.8 for the amendment filed in response to the "Notice of Non-Compliant Amendment." It appears that petitioner is arguing that the Notice of Non-Compliant Amendment was not properly issued because the amendment filed June 28, 2004, was fully responsive to the non-final Office action, but that one page of the amendment was separated from the June 28, 2004, filing. However, because the Notice of Non-Compliant Amendment was issued, petitioner is obligated to provide an appropriate response within the time allowed. Withdrawal of the holding of abandonment will be based on whether a timely and complete response was filed to the "Notice of Non-Compliant Amendment". Accordingly, petitioner must establish that a complete response was timely filed to the "Notice of Non-Compliant Amendment." Petitioner must, therefore, provide a copy of a certificate of transmission under 37 CFR 1.8 noting a timely response to the Notice of Non-Compliant Amendment, and statement of personal knowledge as to the timely transmission of the reply.

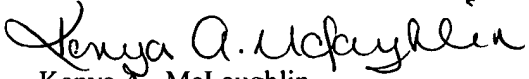
The copy of the facsimile confirmation sheet, dated October 14, 2004, is noted. However, as indicated by 37 CFR 1.8(b) cited above, petitioner must also provide a copy of the certificate of transmission and the statement of personal knowledge before a petition to withdraw the holding of abandonment can be considered grantable.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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



Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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BROWN MARTIN HALLER & MCCLAIM
1660 UNION STREET
SAN DIEGO, CA 92101

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OFFICE OF PETITIONS

In re Application of

Benjiman V. Booher :

Application No. 10/242,155

: DECISION ON PETITION

Filed: September 12, 2002

:

Attorney Docket No. 1658-036

This is a decision on the petition under 37 CFR 1.137(b), filed March 17, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the "Notice of Non-Compliant Amendment mailed August 11, 2004, which set a period for reply of one-month from its mailing date. No response was received within the allowable period, and the application became abandoned on September 12, 2004. A Notice of Abandonment was mailed March 4, 2005.

The amendment filed March 17, 2006, is noted.

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

The application is being forwarded to Technology Center 3600, GAU 3683 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Laura M. Sosa
Gordon & Rees, LLP
101 West Broadway, Suite 1600
San Diego, CA 92101-8217

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, NW
WASHINGTON, DC 20036

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SEP 10 2008

OFFICE OF PETITIONS

In re Application of	:	
Benjamin V. BOOHER	:	
Application No. 10/242,155	:	DECISION ON PETITION
Filed: September 12, 2002	:	TO WITHDRAW
Attorney Docket No. 1365.009	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 3, 2008.

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

A review of the file record indicates that the power of attorney to Steptoe & Johnson LLP, has been revoked by the assignee of the patent application on August 8, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ASCENZ FRICTION & BRAKE LLC
SCOTTSDALE INDUSTRIAL PARK,
PO BOX 14664
SCOTTSDALE, AZ 85267-4664

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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BLUE BELL, PA 19424-0001

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JUL 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Mark R. Treiber et al	:	
Application No. 10/242,163	:	DECISION GRANTING PETITION
Filed: September 12, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. TN138-C2	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 12, 2004, as required by the Notice of Allowance and Fee(s) Due, mailed August 12, 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. 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).

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the $1,400 issue fee and $300 publication fee; (2) the $1,500 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.

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

This matter is being referred to Publishing Division.

Frances Hicks
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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FEB - 7 2006

JOHN R. CASPERSON
P.O. BOX 2174
FRIENDSWOOD, TEXAS 77549

In re Application of	:
Binie V. Lipps et al.	:
Serial No. 10/242,175	: DECISION ON PETITION
Filed : September 9, 2002	:
Attorney Docket No.: FWLPAT017US	:

This letter is in response to the Petition under 37 C.F.R. 1.181 filed on October 13, 2005 to review the scope of the claims which were examined and to request that other subject matter also be included in with the already examined subject matter.

BACKGROUND

A review of the file history shows that the Office on January 13, 2005, mailed a restriction requirement under 35 U.S.C. 121 to applicants dividing claims 1-17 into four groups. The groupings are reproduced below:

> Group I, claim 1, drawn to non-statutory subject matter (35 USC § 101).
> Group II, claims 2-5, drawn to a peptide of SEQ ID NO: 2 or variant thereof.
> Group III, claims 6-9, drawn to a method for increasing NGF levels, using a peptide of SEQ ID NO: 2 or variant thereof.
> Group IV, claims 10-17, drawn to a method for treating Down Syndrome or Schizophrenia, using a peptide of SEQ ID NO: 2 or variant thereof.

The examiner supported this restriction between Groups II and III-IV as product and process of use and Groups III-IV as directed to different inventions using the Form Paragraph 806.05 (h).

The examiner stated that Group II and Groups III-IV are distinct inventions because the product (Group II) can be used to treat either Down's Syndrome or Schizophrenia or enhance NGF levels.

The examiner then stated that Groups III and IV are directed to different inventions, which are not connected in design, operation, and/or effect. These methods are independent since they are not disclosed as capable of use together, they have different modes of operation, they have

different functions, and/or they have different effects. One would not have to practice the various methods at the same time to practice just one method alone.

The examiner also required an election of a single method of using a single peptide. The examiner stated that the peptides/structures vary distinctly in their amino acid residues and length. Thus, an individual sequence and/or structure search is required of each individual peptide/SEQ ID NO. Therefore, as part of the electing any of Groups I-IV, applicants were required to elect a specific SEQ ID NO or other single peptide.

The examiner also required applicants to elect a species. The species were enumerated as Down's Syndrome or Schizophrenia. The examiner stated that should Group IV be elected as the invention, applicants were required under 35 USC 121 to elect a single disclosed species (either Down's Syndrome or Schizophrenia) for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 2, 6 and 10 are generic.

Applicants elected Group IV, claims 10-17, SEQ ID NO: 2 and Down's Syndrome with traverse in the response filed on January 31, 2005. Applicants argued that the restriction between groups III and IV was unjustified. Applicants argue that the Group III claims are carried out by administering the same peptide as employed in the Group IV claims. The relationship is not that of independent inventions, which are unrelated to each other. Applicants also argued that the election of a peptide was in error because no showing of distinctiveness was made. Applicants state that the burden is on the Office to show distinctiveness, rather than on applicants to show that there is not. Applicants also traverse the requirement for election of species stating that no showing has been made that the method of treating of Schizophrenia is materially different from the method of treating Down's Syndrome.

The examiner mailed a non-final Office action to applicants on March 29, 2005, maintaining that the restriction requirement was proper since individual peptides are distinct compounds subject to a separate, non-overlapping sequence and/or compound searches. Therefore, any "peptide compris[ing] at least the first four amino acids from the N-terminal of SEQ ID NO: 1 and no more than 25 amino acids total" are each distinct peptides, absent evidence to the contrary that a search of any one peptide of the above limitation and art readable thereon reads on any/all peptides thereto; and/or, in the alternative, that " the first four amino acids from the N-terminal of SEQ ID NO: 1" are novel and that a search of any of the peptides may be carried out based solely on a search of such, since any peptide containing such would also be novel. The examiner made the requirement Final and then, notwithstanding the above, rejoined SEQ ID NOS: 1-3 and withdrew claims 1-9. Claims 10-17 were examined on the merits, as drawn to a method for treating Down's Syndrome and Schizophrenia using a peptide selected from the group consisting of SEQ ID NOS: 1-3.

In Applicants' response filed July 1, 2005, applicants acknowledged the rejoining of the sequences. Applicants then proceeded to traverse the species election claiming that distinctiveness had not been shown. The premise was that "individual peptides are distinct compounds subject to a separate, non-overlapping sequence and/or compound search" is faulty in that it does not apply to the invention as claimed, as all peptide species within the scope of

claim 10 have the same first four amino acids. The assertion that "Therefore, any 'peptide compris[ing] at least the first four amino acids from the N-terminal of SEQ ID NO: 1 and no more than 25 amino acids total are each distinct peptides..." does not follow from the faulty premise, applicant argued. Distinguishable is not the same as distinct. The phrase, "...absent evidence to the contrary that a search of any one peptide of the above limitation and art readable thereon reads on any/all peptides thereto..." constitutes an improper placement of the burden of showing lack of distinctiveness on applicant and additionally is vague and appears to set forth an incorrect "art readable thereon" patentability standard. The phrase "and/or, in the alternative, that 'the first four amino acids from the N-terminal of SEQ ID NO: 1' are novel and that a search of any of the peptides may be carried out based solely on a search of such, since any peptide containing such would also be novel" is vague, but appears to improperly place the burden of showing patentability on the applicant. It is the duty of the Office to show why an applicant is not entitled to patent, applicants argued.

On September 21, 2005, the examiner mailed a "Notice of Non-Compliant Amendment" to applicants. In the Notice it stated that the restriction requirement was made Final in the Office action dated March 29, 2005, requiring the claims to be limited to SEQ ID NOS: 1-3. The amended claims 10-17 remain drawn to non-elected subject matter beyond SEQ ID NOS: 1-3. Only new claim 18 has been so amended with the proviso that the term ---of--- be inserted after the term "consisting" in line 4.

This petition to review the refusal of examiner to consider patentability of a generic claim after indication of allowable species and holding that an amendment failing to limit the generic claim to species was non-responsive mailed September 21, 2005, was filed on October 13, 2005.

DISCUSSION

The application, file history and petition have been considered carefully. In the Petition filed on October 13, 2005, applicants request the full breadth of newly amended claims 10-18 (filed October 13, 2005) to be considered.

Applicants request that the September 21, 2005, Office action be set aside, that the amendment submitted be entered and that the examiner consider the full breadth of the claims. Applicants argue that the issue is whether the examiner should be required to examine generic method claim 10, drawn to use of a peptide and containing the limitation "wherein the peptide comprises at least the first four amino acids from the N-terminal of SEQ ID NO: 1 and no more than 25 amino acids total" as originally filed, or the limitation "wherein the peptide comprises at least the first four amino acids from the N-terminal of SEQ ID NO: 1, SEQ ID NO: 2, or SEQ ID NO:3, and no more than 25 amino acids total" as in the amendment mailed June 28, 2005, or as in the amendment submitted with the petition.

Applicants also argue that MPEP 809 requires that, subsequent to an election, any linking claims be examined together with the invention elected, and that, should any linking claim be allowed, the restriction requirement must be withdrawn. MPEP 809.03 gives, as its leading example of linking claims, genus claims linking species. The examiner did not comply with MPEP in the March 29, 2005, Office action in that linking claim 10 was not examined. Applicants also argue

that 37 CFR 1.146 grants the examiner the authority to "require the applicant in the reply to that action to elect a species to which his or her claim will be restricted if no claim to the genus is found to be allowable". The examiner was without authority to make the election, as was done in the Office action dated March 29, 2005, or to issue a requirement to cancel claims without examination of the genus claim, also done in the March 29, 2005, Office action.

Applicants also argue that MPEP 707.07 (a) requires the examiner, when making a formal requirement in an action indicating allowable subject matter, to call attention to 37 CFR 1.111 (b) and state that a complete reply must either comply with all the formal requirements or specifically traverse each requirement not complied with. This was not done in the March 29, 2005, Office action, and it is what applicants did in the amendment which was refused entry.

While applicants' arguments have been carefully considered they are not agreed with. The examiner has already expanded the examination to include sequences SEQ ID NOS: 1-3. Applicants elected SEQ ID NO: 2 and the examiner allowed the full scope of the sequences to be examined namely, SEQ ID NOS: 1-3. Applicants are now asking the examiner to search much more than the claims encompass. For the examiner to search, "wherein the peptide comprises at least the first four amino acids from the N-terminal of SEQ ID NO: 1, SEQ ID NO: 2, or SEQ ID NO:3, and no more than 25 amino acids total" would be opening the search and examination to thousands of different permutations of amino acids 5-25. Since only amino acids1-4 are clearly defined, and since each amino acid can be selected from a range of amino acids, to ask the examiner to search the thousands of different permutations would constitute an undue burden on the examiner. Further, the examiner did, in fact, subject the sequences to a restriction requirement, not an election of species requirement; thus the requirements of M.P.E.P. 803.02 do not apply.

For these reasons, the examined scope of claim 10 will be limited to SEQ ID NOS: 1-3, as determined by the examiner.

DECISION

Applicants' petition under 37 CFR 1.181 is **DENIED** for the reasons set forth above.

The application will be forwarded to the examiner for consideration of applicants' reply filed 1 July 2005. The Notice of Non-compliant amendment is withdrawn.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the mailing date hereof in order to be considered timely.

Should there be any questions regarding this decision, please contact Special Program Examiner William R. Dixon, Jr., by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0519 or by Official Fax at 571-273-8300

Jasemine Chambers
Director, Technology Center 1600

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FEB - 7 2006

JOHN R. CASPERSON
P.O. BOX 2174
FRIENDSWOOD, TEXAS 77549

In re Application of	:
Binie V. Lipps et al.	:
Serial No. 10/242,175	: DECISION ON PETITION
Filed : September 9, 2002	:
Attorney Docket No.: FWLPAT017US	:

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On September 21, 2005, the examiner mailed a "Notice of Non-Compliant Amendment" to applicants. In the Notice it stated that the restriction requirement was made Final in the Office action dated March 29, 2005, requiring the claims to be limited to SEQ ID NOS: 1-3. The amended claims 10-17 remain drawn to non-elected subject matter beyond SEQ ID NOS: 1-3. Only new claim 18 has been so amended with the proviso that the term ---of--- be inserted after the term "consisting" in line 4.

This petition to review the refusal of examiner to consider patentability of a generic claim after indication of allowable species and holding that an amendment failing to limit the generic claim to species was non-responsive mailed September 21, 2005, was filed on October 13, 2005.

DISCUSSION

The application, file history and petition have been considered carefully. In the Petition filed on October 13, 2005, applicants request the full breadth of newly amended claims 10-18 (filed October 13, 2005) to be considered.

Applicants request that the September 21, 2005, Office action be set aside, that the amendment submitted be entered and that the examiner consider the full breadth of the claims. Applicants argue that the issue is whether the examiner should be required to examine generic method claim 10, drawn to use of a peptide and containing the limitation "wherein the peptide comprises at least the first four amino acids from the N-terminal of SEQ ID NO: 1 and no more than 25 amino acids total" as originally filed, or the limitation "wherein the peptide comprises at least the first four amino acids from the N-terminal of SEQ ID NO: 1, SEQ ID NO: 2, or SEQ ID NO:3, and no more than 25 amino acids total" as in the amendment mailed June 28, 2005, or as in the amendment submitted with the petition.

Applicants also argue that MPEP 809 requires that, subsequent to an election, any linking claims be examined together with the invention elected, and that, should any linking claim be allowed, the restriction requirement must be withdrawn. MPEP 809.03 gives, as its leading example of linking claims, genus claims linking species. The examiner did not comply with MPEP in the March 29, 2005, Office action in that linking claim 10 was not examined. Applicants also argue

that 37 CFR 1.146 grants the examiner the authority to "require the applicant in the reply to that action to elect a species to which his or her claim will be restricted if no claim to the genus is found to be allowable". The examiner was without authority to make the election, as was done in the Office action dated March 29, 2005, or to issue a requirement to cancel claims without examination of the genus claim, also done in the March 29, 2005, Office action.

Applicants also argue that MPEP 707.07 (a) requires the examiner, when making a formal requirement in an action indicating allowable subject matter, to call attention to 37 CFR 1.111 (b) and state that a complete reply must either comply with all the formal requirements or specifically traverse each requirement not complied with. This was not done in the March 29, 2005, Office action, and it is what applicants did in the amendment which was refused entry.

While applicants' arguments have been carefully considered they are not agreed with. The examiner has already expanded the examination to include sequences SEQ ID NOS: 1-3. Applicants elected SEQ ID NO: 2 and the examiner allowed the full scope of the sequences to be examined namely, SEQ ID NOS: 1-3. Applicants are now asking the examiner to search much more than the claims encompass. For the examiner to search, "wherein the peptide comprises at least the first four amino acids from the N-terminal of SEQ ID NO: 1, SEQ ID NO: 2, or SEQ ID NO:3, and no more than 25 amino acids total" would be opening the search and examination to thousands of different permutations of amino acids 5-25. Since only amino acids1-4 are clearly defined, and since each amino acid can be selected from a range of amino acids, to ask the examiner to search the thousands of different permutations would constitute an undue burden on the examiner. Further, the examiner did, in fact, subject the sequences to a restriction requirement, not an election of species requirement; thus the requirements of M.P.E.P. 803.02 do not apply.

For these reasons, the examined scope of claim 10 will be limited to SEQ ID NOS: 1-3, as determined by the examiner.

DECISION

Applicants' petition under 37 CFR 1.181 is **DENIED** for the reasons set forth above.

The application will be forwarded to the examiner for consideration of applicants' reply filed 1 July 2005. The Notice of Non-compliant amendment is withdrawn.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the mailing date hereof in order to be considered timely.

Should there be any questions regarding this decision, please contact Special Program Examiner William R. Dixon, Jr., by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0519 or by Official Fax at 571-273-8300

Bruce M. Kisliuk
Director, Technology Center 1600

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OFFICE OF PETITIONS

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

In re Application of :
Koning, et al. :
Application No. 10/242,177 : ON PETITION
Filed: September 12, 2002 :
Attorney Docket No. 884.212US2 :

This is a decision on the petition under 37 CFR 1.181, originally filed June 26, 2003, to withdraw the holding of abandonment. The petition was recently forwarded to this office for consideration.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and publication fee, if applicable, on or before April 28, 2003. Accordingly, this application became abandoned on April 29, 2003. A Notice of Abandonment was mailed on June 17, 2003.

Petitioner asserts the Office communication 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.

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8-18-06

Paper No.: _____

TO SPE OF : ART UNIT 3644

SUBJECT : Request for Certificate of Correction on Patent No.: 6863243 (10/242179)

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.

Should inventors be added? Please Response

Eva James

Thank You For Your Assistance A/B/A/P Thanks

Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

Complies with MPEP 1412.04

TERI PHAM LUU
SUPERVISORY
PRIMARY EXAMINER

SPE **Art Unit**

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BEYER WEAVER & THOMAS LLP
P.O. Box 70250
Oakland, CA 94612-0250

MAILED

APR 06 2005

Technology Center 2100

In re Application of:
Nicholas M. RYAN
Application No. 10/242,185
Filed: September 11, 2002
For: METHOD AND SYSTEM FOR PROTECTING ENCRYPTED FILES TRANSMITTED OVER A NETWORK

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 0.40(c) filed January 10, 2005.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on February 15, 2005. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Carr & Ferrell, LLP as the attorney(s) of record of the instant application. The Power of Attorney of February 15, 2005 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Carr & Ferrell, LLP.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

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

cc: Carr & Ferrell LLP
2200 Geng Road
Palo Alto, CA 94303

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JAN 17 2007

OFFICE OF PETITIONS

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

In re Application of :
RYAN :
Application No. 10/242,185 : DECISION ON PETITION
Filed: September 11, 2002 : TO WITHDRAW
Attorney Docket No. SSL1P010/SS-029 : FROM RECORD
:

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

The request is **APPROVED**.

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

The request was signed by Susan Yee on behalf of all attorneys of record who are associated with customer No. 22830. All attorneys/agents associated with the Customer Number 22830 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed November 17, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **PSS SYSTEMS, INC.**
2471 EAST BAYSHORE ROAD, SUITE 600
PALO ALTO, CA 94303

cc: **RYAN MORRISON**
INVENTION LAW GROUP
1756-114TH AVENUE SE, SUITE 110
BELLEVUE, WA 98004

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JAN 27 2005

Paper No. 6

In re Application of :
Janet Hood :
Application No. 10/242,192 : DECISION ON PETITION
Filed: September 12, 2002 :
Attorney Docket No 8092-94(166006) :

This is a decision on the petition filed on October 29, 2004, by which petitioner requests withdrawal of holding that this application stands abandoned for failure to file a proper and timely reply to the Office letter dated September 30, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that a timely and proper reply to the Office letter in question was in fact filed by facsimile transmission on December 30, 2003. Petitioner has supported this allegation by furnishing a copy of the reply and a copy of a petition for a one month extension of time. The petition for extension of time is alleged to have been accompanied by a check for the extension fee, and also includes an authorization to charge counsel's Deposit Account if necessary. These papers each include a 37 CFR 1.8(a) certificate of mailing dated November 13, 2003, a date within the period set for filing a reply to the Office letter in question, as extended by one month. It is clear from this evidence that the application is not abandoned. See 37 CFR 1.8(b). It is also noted that Office Financial records show that the check for the $55.00 extension of time fee has been received and processed by the Office.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the reply filed on November 13, 2003. Thereafter, the application will be forwarded to the examiner for immediate action on the reply filed on May 14, 2003.

Petitioner is also advised that the requested change of correspondence address submitted in the body of the instant petition **has** been entered. However, petitioner's attention is directed to 37 CFR 1.4(c) and MPEP § 601.03. Future requests to change a correspondence address that are not presented within the body of papers directed to other issues may be overlooked by the Office or not deemed as instructions to change the correspondence address.

PETITION GRANTED.

E R Kazenske

Edward R. Kazenske, Director
Technology Center 3700

Robert E. Cannuscio
Drinker Biddle & Reath LLP
One Logan Square
18TH and Cherry Streets
Philadelphia, PA 19103-6996

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OCT 7 2004

Paper No. 082504

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

In re Application of:
ROBERT J. KOLAJA
Serial No.: 10/242,193
Filed: September 11, 2002
Attorney Docket No.: **23149-07151**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed June 14, 2004.

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

The request meets all the above stated requirements. The request was signed by Amir H. Raubvogel, on behalf of himself and all the attorneys/agents of record.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed to Ori Raubvogel, at the below address, as requested, until otherwise notified by applicant.

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

Edward Westin

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

cc: ORI RAUBVOGEL
QUINN APPLIED TECHNOLOGIES, INC.
25 ESNA PARK DRIVE
MARKHAM, ONTARIO L3R 1C9
CANADA

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)
6840085	2005-01-11	10242193	2002-09-11	

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	/Amir H. Raubvogel/	Date (YYYY-MM-DD)	2009-03-02
Name	Amir H. Raubvogel	Registration Number	37070

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. 6840085
Issue Date: January 11,2005
Application No. 10242193
Filed: September 11,2002
Attorney Docket No. 23149-07151

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

This is a decision on the electronic petition, filed March 2,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 2,2009 . 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.

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DELBERT J. BARNARD
BARNARD & PAULY, P.S.
P.O. BOX 58888
SEATTLE WA 98138-1888

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JUL 28 2006

OFFICE OF PETITIONS

In re Application of
Pak Nin Chan
Application No. 10/242,198
Filed: September 12, 2002
Attorney Docket No. Chan G-1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b),[1] filed June 19, 2006, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed December 1, 2005. A shortened statutory period of three months was set for replying Final Office Action. No extensions of time having been filed, the application became abandoned March 2, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment.

---

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

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

In response to the Final Office Action mailed December 1, 2005, petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 1761 for processing of the RCE and submission.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of :
David Oglesby, et al. :
Application No. 10/242,201 :
Filed: September 12, 2002 :
Attorney Docket No. H0003127 (256.117US1) :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b) filed August 30, 2006.

The request is **NOT APPROVED**.

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

The request to withdraw less than all attorneys appointed by customer number 21186 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice.

There is an outstanding Office action mailed September 7, 2006 that requires a response by the applicant.

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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN NJ 07962-2245

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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JAN 18 2008

OFFICE OF PETITIONS

In re Application of :
Giacalone :
Application No. 10/242,202 : DECISION ON PETITION
Filed: September 12, 2002 :
Attorney Docket No. TI-33083 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 23, 2007, to revive the above-identified application.

The petition is **GRANTED**.

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

This application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of June 6, 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 (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is September 7, 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 Notice of Appeal; (2) the petition fee of $1,540.00; and (3) an acceptable proper statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 2193 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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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 :
Bevan Staple et al :
Application No. 10/242,213 : DECISION GRANTING PETITION
Filed: September 12, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 019930-008300US :

This is a decision on the petition, filed August 30, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 26, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1763 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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INTERNATIONAL BUSINESS MACHINES CORPORATION
c/o HAMILTON & TERRILE, LLP
P.O. BOX 203518
AUSTIN TX 78720

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OFFICE OF PETITIONS

In re Application of :
Paulsen et al. :
Application No. 10/242,232 : ON PETITION
Filed: September 12, 2002 :
Attorney Docket No. AUS920020408US1 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 3, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 2100 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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DEC 22 2004

Paper No. 121404

Duane Morris, LLP
100 College Rd., West
Suite 100
Princeton, NJ 08540

In re Application of: Kurtz	:	
Serial No.: 10/242,244	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: September 12, 2002	:	
Attorney Docket No.: **KULITE-79**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 2, 2004.

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

The request meets all the above stated requirements. The request was signed by Paul A. Schwarz, on behalf of himself and all the attorneys/agents of record. The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed Plevy & Howard, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton Laballe at (571) 272-1594.

Clayton Laballe, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Plevy & Howard
600 North Easton Rd.
Willow Grove, PA 19090

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FULBRIGHT & JAWORSKI LLP
2200 ROSS AVE
SUITE 2800
DALLAS TX 75201-2784

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OFFICE OF PETITIONS

In re Application	:	
Scherzer, et al.	:	
Application No. 10/242,276	:	DECISION ON PATENT TERM
Filed: September 11, 2002	:	ADJUSTMENT
Attorney Docket No.	:	
65948/P068US/10404021		

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)," filed March 7, 2005, requesting correction of the patent term adjustment (PTA) indicated on the patent from one hundred thirty-two (132) days to one hundred eighty (180) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **one hundred eighty (180) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 7, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is one hundred thirty-two (132) days. On March 7, 2005, Applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is one hundred eighty (180) days.

Applicants assert entitlement to a patent term adjustment of one hundred eighty (180) days on the basis that the PTO improperly assessed Applicants a delay of forty-eight (48) days for filing an Information Disclosure Statement (IDS) on July 6, 2004, after Applicants had filed a response on May 19, 2004.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of one hundred thirty-two (132) days based on an adjustment for PTO delay of one hundred one (101) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) and seventy-nine (79) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(a)(2), reduced by Applicants' delay of forty-eight (48) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(8). The adjustment of 48 days is at issue.

A review of the application file reveals that the IDS filed on July 6, 2004 contained a proper 37 CFR 1.704(d) statement, specifically that each item in the IDS was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by an individual designated in § 1.56(c) more than thirty days prior to the filing of the IDS.

In view of the above, it is concluded that no applicant delay should have been assessed for the filing of the IDS on July 6, 2004.

Accordingly, the correct determination of PTA at the time of mailing of the Notice of Allowance is **one hundred eighty (180) days** (180 days of PTO delay and 0 days of applicant delay).

---

[1] Applicants filed the application for patent term adjustment together with the filing of the issue fee.

Receipt of the $200 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

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

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

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enc: updated PAIR screen

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KANG LIM
3494 CAMINO TASSAJARA ROAD #436
DANVILLE CA 94306

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
WYNN :
Application No. 10/242,291 :DECISION ON REQUEST TO
Filed: September 11, 2002 :WITHDRAW AS ATTORNEY
For: **SELF-CONFIGURING NETWORK TELEPHONE SYSTEM AND METHOD** :

This is a decision on the request to withdraw as attorney/agent of record filed on November 17, 2003, (Paper No. 7).

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

The Request to Withdraw as Attorney is **DISMISSED AS MOOT**.

Attorney requesting withdraw is not of record due to a Revocation of Power of Attorney executed by the assignee on December 15, 2003. Furthermore, the Attorney requesting the withdraw, Mr. C.J. Lervick is not of record.

Further communications will be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc :
C.J. Lervick
Weintraub Genshlea Chediak Sproul
400 Capitol Mall
11th Floor
Sacramento, CA 95826

UNITED STATES PATENT AND TRADEMARK OFFICE

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

McDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE, 32ND FLOOR
CHICAGO, IL 60606

COPY MAILED

DEC 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Daniel Delorme et al	:	
Application No. 10/242,304	:	DECISION GRANTING PETITION
Filed: September 12, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 02-423-B	:	

This is a decision on the petition, filed December 5, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 8, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/01/09

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10242304 Patent No.: 7595343

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

1624

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/242,320	09/11/2002	2622	477	59348-8005.US01	20	14	4

CONFIRMATION NO. 1628

22918
PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK, CA 94026

CORRECTED FILING RECEIPT

OC000000011028415

Date Mailed: 10/14/2003

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

Applicant(s)

Qiong Wu, Los Gatos, CA;
Kwok K. Chau, Los Altos, CA;
Hau-Yung Chen, Saratoga, CA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 10/08/2002

Projected Publication Date: 03/11/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

MPEG video bitstream decoder system and method

Preliminary Class

358

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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JUN 05 2007

OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

In re Application of :
Dustin Alan COCHRAN :
Application No. 10/242,336 : DECISION ON PETITION
Filed: September 11, 2002 : TO WITHDRAW
Attorney Docket No. 146712014200 : 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 30, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on June 16, 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 Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: RAJ S. DAVE, PH.D
DARBY & DARBY P.C.
1500 K STREET, N.W.
WASHINGTON, D.C. 20005-1714

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Paper No. 12

FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

MAILED

DEC 10 2003

Technology Center 2100

In re Application of:
Anil Sethi
Application No.: 10/242,360
Filed: September 13, 2002
For: SYSTEM AND METHOD FOR CAPTURING DIGITAL DATA DIRECTLY FROM AN ELECTRONIC DEVICE AND PROCESSING DATA INTO WML FORM ON A COMPUTER CHIP

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1. 36 and 10.40(c) filed September 8, 2003.

A Power Of Attorney Under 37 CFR § 1. 36 was filed on October 22, 2003. The Power Of Attorney revoked all prior Powers Of Attorney and appointed FISH & RICHARDSON as the attorneys of record of the instant application. The Power Of Attorney of October 22, 2003 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by FISH & RICHARDSON.

For the above stated reasons, the request is DISMISSED AS MOOT.

No further communication to you regarding this application will be made.

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

cc: FISH & RICHARDSON
1425 K Street, N.W.
11TH Floor
Washington, DC 20005-3500

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HEWLETT-PACKARD
COMPANY
Intellectual Property Administration
P. O. Box 272400
Fort Collins, CO 80527-2400

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MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of

Brignone, et al.

Application No. 10/242,366

Filed: September 13, 2002

Attorney Docket No. 200208156-1

DECISION ON PETITION

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 12, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time pursuant to 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on July 13, 2006. A Notice of Abandonment was mailed on January 4, 2007.

The amendment filed January 17, 2006, is noted and made of record.

The application is being forwarded to Technology Center 2600, GAU 2617 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

#9

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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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MAILED

JUN 10 2004

TECHNOLOGY CENTER 2100

Paper No. 9

David A. Hall
Heller Ehrman White & McAuliffe LLP
7th Floor
4350 La Jolla Village Drive
San Diego, CA 92122-1246

In re Application of:
Livio RICCIULLI
Application No. 10/242,380
Filed: September 10, 2002
For: DYNAMIC DOS FLOODING PROTECTION

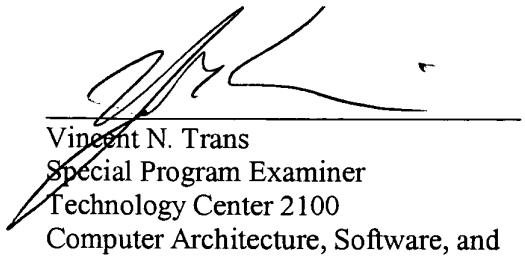
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed May 24, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

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



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

cc: Steven Swernofsky, Esq.
Swernofsky Law Group PC
4970 El Camino Real
Suite 210
Los Altos, CA 94022

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Martin Faier, Esq.
Faier & Faier P.C.
566 W. Adams St., Suite 600
Chicago, IL 60661

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MAR 23 2006

OFFICE OF PETITIONS

In re Application of :
Goetz Dittmar, et. al. :
Application No. 10/242,384 : ON PETITION
Filed: September 12, 2002 :
Attorney Docket No. 7248 :

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

The application became abandoned for failure to timely respond to the Notice of Allowability mailed August 31, 2005. A Notice of Abandonment was mailed on January 9, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of one (1) sheet of a replacement drawing of Figure 1; (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 $1,400 for payment of the issue fee and $300 for payment of the publication fee submitted on November 30, 2005.

37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the above-identified application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. Since the application is a utility or plant application filed after June 8, 1995, a terminal disclaimer is not required. Accordingly, the terminal disclaimer filed with the instant petition is unnecessary. Therefore, the fee of $130 will be refunded to petitioner's deposit account.

This application file is being referred to the Office of Publications for review of the replacement drawing 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

GLENN D. SMITH
HODGSON RUSS LLP
SUITE 2000
ONE M&T PLAZA
BUFFALO, NY 14203-2391

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FEB 28 2005

OFFICE OF PETITIONS

In re Application of :
Luis Cediel, et al. :
Application No. 10/242,393 : ON PETITION
Filed: November 12, 2002 :
Attorney Docket No. 31529.0061 :

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 the issue fee in a timely manner in reply to the Notice of Allowance mailed May 11, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 12, 2004.

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

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

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

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 05/20/2010

Applicant	: Sung-Keun Ji	: DECISION ON REQUEST FOR
Patent Number	: 7647390	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/242,402	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1334** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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SQUIRE, SANDERS & DEMPSEY L.L.P.
14TH FLOOR
8000 TOWERS CRESCENT
TYSONS CORNER VA 22182

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APR 19 2007

OFFICE OF PETITIONS

In re Patent No. 6,987,486 :
Issue Date: January 17, 2006 :
Application No. 10/242,419 : ON PETITION
Filed: September 13, 2002 :
Attorney Docket No. 59244.00004 :

This is a decision on the petition filed April 20, 2006, 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 "Flextronics ODM Luxembourg S.A. Zweigniederlassung Schweiz, Baar (CH)."

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 Flextronics Sales & Marketing (A-P) Ltd. to Flextronics ODM Luxembourg SA, Luxembourg, Zweigniederlassung Schweiz" was recorded on March 22, 2007, **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.

Telephone inquiries concerning this decision on petition should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 11

MAIL

JUN 0 4 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of :
Zinser, et al. :
Application No. 10/242,428 :
Filed: September 13, 2002 :
For: PITCH AND GAIN ENCODER :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request for Withdrawal as Attorney/Agent and change of address filed on March 18, 2004.

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

The Request to Withdraw as Attorney is **DISMISSED AS MOOT**.

Attorneys requesting withdrawal are not of record due to a Revocation of Power of Attorney filed by Assignee on May 4, 2004, and approved by the Patent and Trademark Office on May 17, 2004.

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. A courtesy copy of the decision will be sent to the petitioner at the address below

Kenneth A. Weider
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: Mcdermott, Will & Emery
18191 Von Karman Ave.
Suite 400
Irvine, CA 92612-7107

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 8

MAIL

APR 06 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of)
Zinser, et al.)
Application No. 10/242,429) DECISION ON REQUEST TO
Filed: September 13, 2002) WITHDRAW FROM RECORD
For: COMPRESSED DOMAIN CONFERENCE)
BRIDGE

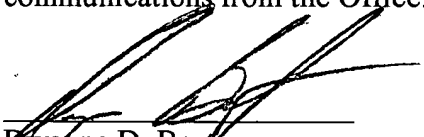
This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on March 18, 2004.

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 customer number 20350 are withdrawn.

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



Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

CC: Mark J. Itri, Esq.
McDermott, Will & Emery
18191 Von Karman Avenue
Suite 400
Irvine, CA 92612

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Paper No. 8

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

MAIL

APR 05 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of)
Zinser, et al.)
Application No. 10/242,431)
Filed: September 13, 2002)
For: TDVC-TO-MELP TRANSCODER)

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on March 18, 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 customer number 20350 are withdrawn.

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

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

CC: Mark J. Itri, Esq.
McDermott, Will & Emery
18191 Von Karman Avenue
Suite 400
Irvine, CA 92612

PTO/SB/17 (10-07)
Approved for use through 06/30/2010. 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 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2008

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 2540.00

Complete if Known	
Application Number	10/242436
Filing Date	9/13/2002
First Named Inventor	Trovinger
Examiner Name	
Art Unit	
Attorney Docket No.	100110074-1

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☑ Deposit Account Deposit Account Number: 08-2025 Deposit Account Name: Hewlett-Packard

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

Application Type	FILING FEES Fee ($)	FILING FEES Small Entity Fee ($)	SEARCH FEES Fee ($)	SEARCH FEES Small Entity Fee ($)	EXAMINATION FEES Fee ($)	EXAMINATION FEES Small Entity Fee ($)	Fees Paid ($)
Utility	310	155	510	255	210	105	
Design	210	105	100	50	130	65	
Plant	210	105	310	155	160	80	
Reissue	310	155	510	255	620	310	
Provisional	210	105	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 3 (including Reissues)	210	105
Multiple dependent claims	370	185

Total Claims	Extra Claims	Fee ($)	Fee Paid ($)
_____ - 20 or HP =	_____	x _____	= _____

HP = highest number of total claims paid for, if greater than 20

Indep. Claims	Extra Claims	Fee ($)	Fee Paid ($)
_____ - 3 or HP =	_____	x _____	= _____

HP = highest number of independent claims paid for, if greater than 3

Multiple Dependent Claims Fee ($)	Multiple Dependent Claims Fee Paid ($)
_____	_____

3. APPLICATION SIZE FEE

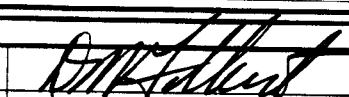
If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $260 ($130 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee ($)	Fee Paid ($)
_____ - 100 =	_____ / 50 =	_____ (round **up** to a whole number) x	_____	= _____

4. OTHER FEE(S)

	Fees Paid ($)
Non-English Specification, $130 fee (no small entity discount)	
Other (e.g., late filing surcharge): Petition fee and 4 year Maintenance fee	2540.00

SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 27,196	Telephone 408-447-4447
Name (Print/Type)	Douglas M. Gilbert		Date June 12, 2008

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 the form, call 1-800-PTO-9199 and select option 2.

A31 PTO/SB/66
Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6796554	2004-09-28	10242436	2002-09-13	100110074-1

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		Date (YYYY-MM-DD)	2007-06-12
Name	Douglas M Gilbert	Registration Number	27196

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.**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

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JUL 0 2 2008

OFFICE OF PETITIONS

Patent No. 6,796,554 :
Application No. 10/242,436 :
Filed: September 13, 2002 : ON PETITION
Issued: September 28, 2004 :
Attorney Docket No. 100110074-1 :

This is a decision on the petition under 37 CFR 1.378(c), filed June 12, 2008, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED as moot.**

A petition under 37 CFR 1.378(c) to accept the delayed payment of maintenance fee in an expired patent is not necessary in the instant patent, as the patent has not expired. The Maintenance Fee Window dates for the 3.5-year maintenance fee are as follows:

Open Date: September 28, 2007
Surcharge Date: March 31, 2008
Close Date: September 29, 2008

The instant patent would not expire unless the maintenance fee and late surcharge were not submitted on or prior to September 28, 2008. However, petitioner submitted the $930.00 maintenance fee and the $130.00 surcharge during the 6-month grace period. Accordingly, the fees were timely and the instant patent is maintained in force.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

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

MAIL

MAR 2 6 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of)
Zinser, et al.)
Application No. 10/242,452)
Filed: September 13, 2002)
For: TDVC-TO-LPC TRANSCODER)

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on March 18, 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 customer number 20350 are withdrawn.

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

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

CC: Mark J. Itri, Esq.
McDermott, Will & Emery
18191 Von Karman Avenue
Suite 400
Irvine, CA 92612

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

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AUG 16 2005

OFFICE OF PETITIONS

BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

In re Application of
Seung-Don Seo
Application No. 10/242,462
Filed: September 13, 2002
Attorney Docket No. 116511.00109
Title: CONNECTING ROD APPARATUS OF HERMETIC COMPRESSOR

DECISION ON TWO PETITIONS
UNDER 37 C.F.R. §1.182

This is in response to the petitions filed on June 1, 2005 and August 4, 2005, both under 37 C.F.R. §1.182, requesting the withdrawal of a terminal disclaimer and expedited review, respectively[1].

The petition for expedited review under 37 C.F.R. §1.182:

The petition is **GRANTED**.

The petition requesting the withdrawal of a terminal disclaimer under 37 C.F.R. §1.182:

On January 7, 2005, Petitioner submitted a terminal disclaimer to overcome a nonstatutory double patenting rejection over U.S. Patent No. 6,739,237 in a non-final Office action mailed October 7, 2004. Petitioner has since filed an amendment on June 1, 2005, and submits that the terminal disclaimer is no longer necessary.

With the instant petition, Petitioner has submitted the petition fee. The Examiner has reviewed petitioner's request, and has determined that the previously filed terminal disclaimer should be withdrawn.

As such, the petition is **GRANTED**.

The previously filed terminal disclaimer is hereby **WITHDRAWN**.

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

1 Petitioner has submitted $130 for each of these petitions, but the fee associated with the filing of a petitionunder this section of the C.F.R. is $400. As such, the deficiency has been charged to Petitioner's Deposit Account.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 9

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

MAIL

MAR 2 6 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of)
Zinser, et al.)
Application No. 10/242,465)
Filed: September 13, 2002)
For: COMPRESSED DOMAIN VOICE ACTIVITY DETECTOR)

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on March 18, 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 customer number 20350 are withdrawn.

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

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

CC: Mark J. Itri, Esq.
McDermott, Will & Emery
18191 Von Karman Avenue
Suite 400
Irvine, CA 92612

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAIL

MAY 6 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MCDERMONTT WILL & EMERY LLP
18191 VON KARMAN AVE.
IRVINE, CA 92612-7107

In re Application of :
Zinser :
Application No. 10/242,465 : DECISION ON PETITION
Filed: September 13, 2002 :
For: **COMPRESSED DOMAIN VOICE ACTIVITY DETECTOR** :

This is a decision on the Petition to Withdraw Holding of Abandonment filed April 15, 2005, pursuant to 37 C.F.R. § 1.181(a).

The application was held abandoned for failure to respond in a timely and effective manner to the Office communication mailed July 13, 2004. A Notice of Abandonment was mailed March 25, 2005.

Petitioner alleges to have timely filed a response to said Office communication on January 13, 2005. In support thereof, Petitioner provided evidence in the way of a copy of the response filed January 18, 2005 including a date stamped post card receipt itemizing the receipt of an amendment on January 18, 2005 along with a petition for three months extension of time. (A certificate of mailing was provided with a deposit date of January 13, 2005.)

A review of the file record reveals that the original amendment filed on January 18, 2005 has been located and matched with the file.

In view of the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Any inconvenience caused petitioner is regretted.

The petition is **GRANTED**.

The application file is being forwarded to the Technology Center's technical support staff for entry of the January 18, 2005 response. From there, the file will be forwarded to the examiner for further action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 9

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

MAIL

MAR 2 6 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of)
Zinser, et al.)
Application No. 10/242,466)
Filed: September 13, 2002)
For: HYBRID DUAL/SINGLE TALKER)
SPEECH SYNTHESIZER

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on March 18, 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 customer number 20350 are withdrawn.

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

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

CC: Mark J. Itri, Esq.
McDermott, Will & Emery
18191 Von Karman Avenue
Suite 400
Irvine, CA 92612

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FOLEY & LARDNER LLP
1530 PAGE MILL ROAD
PALO ALTO, CA 94304

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OFFICE OF PETITIONS

In re Application of :
Cragg, et al. :
Application No. 10/242,469 : ON PETITION
Filed: September 13, 2002 :
Attorney Docket No. 018413-446 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed August 14, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on March 30, 2006, after it was believed that no response was received to the non-final Office action mailed December 29, 2005. The notice allowed a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A review of the application file reveals that an amendment responsive to the non-final Office action was filed on June 29, 2006, along with a request for an extension of time within the third month. Notwithstanding, a Notice of Abandonment was mailed on July 14, 2006, indicating that a reply to the non-final Office action was not received.

The instant petition maintains that the response to non-final Office action was timely filed. The abandonment is being withdrawn on the basis of the undersigned review of the application file and discovery of amendment filed June 29, 2006, that is responsive to the non-final Office action.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded to Technology Center 3700, GAU 3763 for further processing, including processing of the amendment filed June 29, 2006.

Questions regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

INCYTE GENOMICS, INC.
3160 PORTER DRIVE
PALO ALTO CA 94304

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JAN 0 7 2003

OFFICE OF PETITIONS

In re Application of
Coleman, et al.
Application No. 10/242,499
Filed: September 11, 2002
Attorney Docket No. PF-0038-2 DIV
For: NOVEL HUMAN PURINERGIC P2U RECEPTOR

DECISION GRANTING PETITION

This is a decision on the petition entitled, "Petition Under 37 CFR 1.181 to Accord Original Filing Date and Response to Notice of Omitted Item(s) in a Nonprovisional Application Filed Under 37 CFR 1.53(b)", filed December 9, 2002 (certificate of mailing date December 3, 2002), requesting, in effect, withdrawal of the Notice to File Omitted Item(s) in a Nonprovisional Application (Notice). The petition will be treated under 37 CFR 1.53(e).

The application was deposited on September 11, 2002. On October 3, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that drawing figure 2D described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that drawing figure 2D be accorded a filing date of September 11, 2002 on the basis that figures 1A, 1B, 1C, 2A, 2B, 2C, and 2D were received in the Patent and Trademark Office (PTO) on September 11, 2002. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing September 11, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included Figures 1A, 1B, 1C, 2A, 2B, 2C, and 2D.

The return postcard constitutes *prima facie* evidence that drawing figure 2D was filed on September 11, 2002. MPEP 503. Accordingly, the request is granted.

It is unnecessary to address petitioners' other arguments in favor of a September 11, 2002 filing date for Figure 2D, as petitioners have submitted a date stamped itemized postcard receipt.

Pursuant to petitioners' authorization, the $130.00 petition fee will be credited to deposit account no. 09-0108.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **September 11, 2002**, using the copy of drawing figure 2D submitted with the instant petition. Office records will be corrected to show that 7 sheets of drawings were present on filing.

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 6

RANDY A. NORANBROCK
LOWE HAUPTMAN GILMAN & BERNER LLP
1700 DIAGONAL ROAD, SUITE 310
ALEXANDRIA, VA 22314

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FEB 1 3 2003

OFFICE OF PETITIONS

In re Application of :
Katsuya Matsuo et al :
Application No. 10/242,506 :
Filed: September 13, 2002 :
Attorney Docket No. 4495-038 :

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 3600.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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RYNDAK & SURI
30 NORTH LASALLE STREET
SUITE 2630
CHICAGO, IL 60602

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JUN 22 2005

OFFICE OF PETITIONS

In re Application of :
Boggs, et al. :
Application No. 10/242,512 :
Filed: September 12, 2002 :
Attorney Docket No. 02105.002325 :

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

This is a decision on the petition under 37 CFR 1.78(a)(6), filed April 25, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional application no. 60/318,331, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

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

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/318,331, which was filed on September 12, 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.

The application is being forwarded to Technology Center AU 3754 for appropriate action on the amendments submitted April 25, 2005 and May 2, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/318,331.

Any inquiries concerning this decision may be directed to Petitions Attorney Edward Tannouse at (571) 272-3228. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks

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

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AKIN GUMP STRAUSS HAUER & FELD LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA PA 19103-7013

COPY MAILED

APR 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Masahiro Aketa et al	:	
Application No. 10/242,542	:	ON PETITION
Filed: September 12, 2002	:	
Attorney Docket No. 10844-7US(P01KS20257)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 3, 2005, to revive the above-identified application.

The petition is **GRANTED**.

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 and publication fee in a timely manner in reply to the Notice of Allowance mailed August 12, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 13, 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/242,634	09/13/2002	Isao Matsui	228139US3RD	3195

22850 7590 11/08/2007

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

EXAMINER	
BOS, STEVEN J	

ART UNIT	PAPER NUMBER
1754	

NOTIFICATION DATE	DELIVERY MODE
11/08/2007	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

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

Mailed: 11-8-07

In re application of	:	
Matsui et al.	:	DECISION ON
Serial No. 10/242,634	:	PETITION
Filed: September 13, 2002	:	
For: Method And Apparatus For Manufacturing Fine Particles	:	

This is a decision on the PETITION UNDER 37 CFR 1.181 for acknowledgment of an IDS files on August 14, 2007.

DECISION

A supplemental notice of allowance acknowledging the IDS was sent out.

Accordingly, the instant petition is **DISMISSED.**

Jacqueline M. Stone/wk

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

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

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S.N. 10/242635

DECISION ON PETITION UNDER 37 C.F.R. 1.97 FOR CONSIDERATION OF INFORMATION DISCLOSURE STATEMENT

The petition filed August 12, 2004 under 37 C.F.R. 1.97(d) for consideration of an information disclosure statement filed after notice of allowance has been:

[x] GRANTED.

[ ] DENIED.

[ ] It was filed after payment of the issue fee. See 37 C.F.R. 1.97(d)(2)

The petition lacks:

[ ] The required fee under 37 C.F.R. 1.97(d) and 1.17(i)(1).

[ ] A proper certification as specified in 37 C.F.R. 1.97(d) and 1.97(e).

The information disclosure statement will be considered by the examiner, and will then be placed of record in the file.

J. J. Swann
SPE, Art Unit 3677

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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ATTN: ELSA KELLER, LEGAL ADMINISTRATOR
SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
186 WOOD AVENUE SOUTH
ISELIN, NJ 08830

COPY MAILED

MAR 17 2005

OFFICE OF PETITIONS

In re Application of :
Reza Stegamat :
Application No. 10/242,656 : ON PETITION
Filed: September 11, 2002 :
Attorney Docket No. 2002P03163US :

This is a decision on the petition under 37 CFR 1.137(b), filed February 24, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 7, 2004, which set a shortened statutory period for reply of three (3) months. Three months extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 8, 2004.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

This matter is being forwarded to Technology Center AU 2879 for further processing.

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

cc:

Siemens Corporation
Attn: Elsa Keller, Legal Administrator
170 Wood Avenue South
Iselin, NJ 08830

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEYER WEAVER & THOMAS LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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MAR 17 2005

OFFICE OF PETITIONS

In re Application of
Joseph Kaminkow
Application No.09/927,742
Filed: August 10, 2001
Attorney Docket No.
Title of Invention: ROTOR SKEW METHODS FOR PERMANENT MAGNET MOTORS

ON PETITION

This is a decision on the petition under 37 CFR §1.137(a), filed June 10, 2004 to revive the above-identified application.

This application became abandoned for failure to timely submit the a response to the Office Action mailed on August 20, 2003. The finality of the action was withdrawn on October 14, 2003. The Office Action set a three month shortened statutory period for reply. Extensions of time were available under 37 CFR 1.136(a). Accordingly, this application was held abandoned on November 21, 2003. A Notice of Abandonment was mailed May 28, 2004.

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

This application is being forwarded to Technology Center 3700 for review of the amendment submitted with the petition.

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

Charlema R. Grant
Petition Attorney
Office of Petitions

OIPE JC
NOV 25 2002
PATENT & TRADEMARK OFFICE

Attorney Docket: 4477C1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No:	10/242,663
Confirmation No.:	2467
Filed:	September 12, 2002
Title:	Multipartite High-Affinity Nucleic Acid Probes
Applicants:	Egholm et al.
Grp Art Unit:	1645
Examiner:	Not yet assigned
Certified Mail No.	7099 3400 0007 5728 5019

Certificate of Mailing Pursuant to:
37 C.F.R. §1.8

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: Box Missing Parts, Commissioner for Patents, Washington, DC 20231 on this 20th day of November, 2002.

Brian D. Gildea; Reg. No. 39,995

Commissioner for Patents

Dear Sir or Madam:

Response To Notice Of Missing Parts

Responsive to the "Notice To File Missing Parts of Nonprovisional Application" mailed by The Office on October 7, 2002, the Commissioner is hereby authorized to charge, to Deposit Account No. 02-3240, all fees due for the processing of this application, believed to be $ 1122.00. It is believed that this is a complete and timely filed response to the present action.

CORRESPONDENCE/CUSTOMER NUMBER

Please send all correspondence pertaining to this document to:

Applied Biosystems
Attn: Brian D. Gildea, Esq.
15 DeAngelo Drive
Bedford, MA 01730

Telephone: 781-280-2824
Fax: 781-280-2940

IF NOT ALREADY DONE, PLEASE MATCH THIS CASE WITH CUSTOMER NUMBER **23544**

23544

[Insert Customer Number Bar Code]

PATENT TRADEMARK OFFICE

Respectfully submitted
on behalf of Applicants,

Brian D. Gildea, Esq.
Reg. No. 39,995

OIPE
NOV 25 2002
JC37
UNITED STATES PATENT AND TRADEMARK OFFICE

#4

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/242,663	09/12/2002	Michael Egholm	4477C1

CONFIRMATION NO. 2467

FORMALITIES LETTER

OC000000008912507

22896
PATTI SELAN, PATENT ADMINISTRATOR
APPLIED BIOSYSTEMS
850 LINCOLN CENTRE DRIVE
FOSTER CITY, CA 94404

Date Mailed: 10/07/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit $ **740** *to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).*
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

Items Required To Avoid Processing Delays:

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

- Additional claim fees of **$252** as a non-small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$1122** for a Large Entity

- **$740** Statutory basic filing fee.
- **$130** Late oath or declaration Surcharge.
- Total additional claim fee(s) for this application is **$252**

11/26/2002 WABDELR1 00000134 023240 10242663
01 FC:1001 740.00 CH
02 FC:1051 130.00 CH
03 FC:1202 252.00 CH

- **$252** for **14** total claims over 20 .

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

FEB 22 2007

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

In re Patent No. 6,770,649 JASSERAND ET AL
Issue Date: August 3, 2004
Appl No.: 10/242,678
Filed: September 13, 2002
For: Correction of Inventorship

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed February 13, 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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PALMER & DODGE
KATHLEEN M. WILLIAMS
111 HUNTINGTON AVENUE
BOSTON, MA 02199

COPY MAILED

SEP 2 9 2003

OFFICE OF PETITIONS

In re Application of :
Laurent Martinez et al :
Application No. 10/242,686 : DECISION GRANTING PETITION
Filed: September 12, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 18396/2152 :

This is a decision on the petition, filed September 15, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on September 12, 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 previously rescinded.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/242,705	09/12/2002	Christian Huitema	14917.0551USU1	4402

27488 7590 11/20/2007
MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER	
YALEW, FIKREMARIAM A	
ART UNIT	**PAPER NUMBER**
2136	

MAIL DATE	DELIVERY MODE
11/20/2007	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

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United States Patent and Trademark Office
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MAILED

NOV 19 2007

TECHNOLOGY CENTER 2100

Timothy Scull
Merchant & Gould P.C.
PO Box 2903
Minneapolis, MN 55402

In re Application of:
Christian Huitema
Appl. No.: 10/242,705
Filed: September 12, 2002
For: Method and System for Authenticating Messages

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on 13 November 2007, to expunge information submitted pursuant to MPEP § 724.02.

The petition is **DISMISSED**.

Petitioner requests that the information submitted on 13 November 2007 be expunged from the record if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The petition is premature because the application has not been allowed or abandoned. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the information submitted on 13 November 2007 is considered to be "material." Once prosecution on the merits is closed, applicant may re-submit a petition to expunge the information. No further fee is required for such a second submission of a petition under 37 CFR § 1.59 to expunge information. If the information is not considered by the examiner to be material, the information will be returned to applicant.

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

Tod Swann, QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/242,705	09/12/2002	Christian Huitema	14917.0551USU1	4402

27488 7590 03/28/2008
MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER	
YALEW, FIKREMARIAM A	
ART UNIT	PAPER NUMBER
2136	

MAIL DATE	DELIVERY MODE
03/28/2008	PAPER

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

The time period for reply, if any, is set in the attached communication.

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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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Rene A. Pereyra
MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of:
Christian HUITEMA
Appl. No.: 10/242,705
Filed: September 12, 2002
For: METHOD AND SYSTEM FOR AUTHENTICATING MESSAGES

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petitions under 37 CFR 1.59(b), filed on 14 March 2008 and 13 November 2007, to expunge information submitted on 13 November 2007.

The petition is **GRANTED**.

Petitioner requests that the information submitted on 13 November 2007 be expunged from the record. Petitioner states that the materials are proprietary subject. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

Applicant is required to retain the expunged documents for the life of any patent, which issues on the above-identified application.

The expunged documents are herewith returned. However, the petition and support documents will not be returned; thus, have been closed from public view.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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JUN 0 9 2006

OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of :
Plazt, et al. : DECISION ON APPLICATION
Application No. 10/242,714 : FOR PATENT TERM ADJUSTMENT
Filed: September 13, 2002 :
Atty. Dkt. No.: 032055-048 :

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR §1.705(B)," filed April 27, 2006. This matter is being properly treated under 37 CFR 1.705(b) as a timely filed application for patent term adjustment.

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) is hereby **GRANTED**.

The correct PTA at the time of allowance is 366 days. The Office will adjust the PAIR screen to reflect that the PTA determination at the time of allowance reflects an adjustment of 366 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application, mailed March 7, 2006, indicated that the PTA to date is 364 days. The instant application for patent term adjustment and issue fee payment were timely filed April 27, 2006.

As acknowledged by applicants, an adjustment of 229 days in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1) can be attributed to the Office.

A further adjustment of 135 days was calculated in accordance with 37 CFR 1.702(a)(2) and 1.703(a)(2) in connection with the mailing of the Notice of Allowance on March 7, 2006.

Applicants argue that the adjustment in this regard is 137 days. Applicants argue that a reply to the first Notice of Allowance (mailed April 6, 2005) was submitted June 21, 2005 in accordance with the provisions of 37 CFR 1.10, and not June 23, 2005, as indicated in PALM. Applicants have submitted as proof of submission in accordance with 37 CFR 1.10 a copy of a USPS

Express Mail label bearing a "date-in" of June 21, 2005 as well as a copy of a postcard bearing a stamped receipt date of June 21, 2005. Moreover, the response to the Notice of Allowance mailed April 6, 2005 bears a Certificate of Express Mailing in accordance with 37 CFR 1.10 and the same Express Mail label number identified on the copy of the Express mail label submitted herewith.

In view thereof, the response to the Notice of Allowance mailed April 6, 2005 is deemed received on June 21, 2005, the "date-in" reflected on the copy of the Express Mail label submitted herewith.

Accordingly, the proper period of adjustment in accordance with 37 CFR 1.702(a)(2) and 1.703(a)(2) is 137 days, as argued by applicants. The adjustment began October 22, 2005, the day after the date that is four months after the date that a reply to the Notice of Allowance (mailed April 6, 2005) was filed, and ended March 7, 2006, the date the second Notice of Allowance was mailed.

In view thereof, at the time of allowance, the application is entitled to an adjustment of 366 days, as argued by applicants.

Applicants are further advised that should a patent issue, the patent term adjustment indicated therein will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

Receipt is hereby acknowledged of the required Patent Term Adjustment application fee of $200.00.

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

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

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

Enclosure: Copy of Adjustment PAIR Calculation

PALM INTRANET

Day : Tuesday
Date: 6/6/2006
Time: 15:48:50

PTA Calculations for Application: 10/242714			
Application Filing Date:	09/13/2002	PTO Delay (PTO):	364
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	366
PTO Delay Adjustment:	2		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
50	06/06/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	2		
45	03/07/2006	MAIL NOTICE OF ALLOWANCE	135		35
44	03/06/2006	ISSUE REVISION COMPLETED			
43	03/06/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
42	03/06/2006	NOTICE OF ALLOWABILITY			
41	06/23/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
40	06/23/2005	REFERENCE CAPTURE ON IDS			
39	06/23/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	12/13/2005	DATE FORWARDED TO EXAMINER			
37	06/23/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
36	12/13/2005	DATE FORWARDED TO EXAMINER			
35	06/23/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)			
34	12/13/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
33	11/22/2005	RECEIPT INTO PUBS			
32	09/19/2005	WORKFLOW - QUERY REQUEST - FINISH			
31	09/14/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
30	09/14/2005	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
29	08/05/2005	WORKFLOW - QUERY REQUEST - BEGIN			
28	06/23/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
27	05/11/2005	WORKFLOW - FILE SENT TO CONTRACTOR			
26	04/12/2005	EXPORT TO INITIAL DATA CAPTURE			

25	04/06/2005	MAIL NOTICE OF ALLOWANCE			
24	04/04/2005	ISSUE REVISION COMPLETED			
23	04/04/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
22	04/04/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	04/04/2005	NOTICE OF ALLOWABILITY			
20	07/13/2004	INTERFERENCE COMMUNICATION: INITIAL MEMO DISPOSAL			
19	06/29/2004	MAIL LETTER OF SUSPENSION	229		-1
18	06/29/2004	LETTER OF SUSPENSION - EXAMINER INITIATED			
17	05/10/2004	WORKFLOW INCOMING AMENDMENT IFW			
16	01/15/2004	CORRESPONDENCE ADDRESS CHANGE			
15	01/16/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
14	01/05/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	01/05/2004	REFERENCE CAPTURE ON IDS			
12	08/22/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	02/06/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	09/13/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	09/13/2002	PRELIMINARY AMENDMENT			
8	09/13/2002	PRELIMINARY AMENDMENT			
7	10/08/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	10/09/2002	APPLICATION DISPATCHED FROM OIPE			
5	10/08/2002	APPLICATION IS NOW COMPLETE			
4	09/27/2002	CLEARED BY L&R (LARS)			
3	09/27/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	09/21/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/13/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-7-06

TO SPE OF : ART UNIT 1760

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/242714 Patent No.: 7097827

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

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

Please check Assignee on Title Patent

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

E Young

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

JOHANN RICHTER
SUPERVISORY PATENT EXAMINER
GROUP 1600

SPE

1616
Art Unit

Staple Here Only

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. .: 7,097,827

APPLICATION NO .: 10/242,714

DATED .: AUGUST 29, 2006

INVENTOR(S) .: ROBERT M. PLATZ, LINDA C. FOSTER, JOHN S. PATTON AND MOHAMMED ELJAMAL

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

On the cover page, replace:

Inhale Therapeutic Systems, Inc., San Carlos, CA (US), with

--Nektar Therapeutics, San Carlos, CA (US)--

MAILING ADDRESS OF SENDER:

Jennifer A. Zanocco
Fish & Richardson P.C.
P.O. Box 1022
Minneapolis, Minnesota 55440-1022

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

Eugene Mar
BACON & THOMAS, PLLC
Fourth Floor
625 Slaters Lane
Alexandria VA 22314-1176

COPY MAILED

SEP 21 2005

OFFICE OF PETITIONS

In re Patent No. 6,820,992
Issue Date: November 23, 2004
Inventor: Hong-Tien Yu et al.
Application No. 10/242,716
Filed: September 13, 2002
Attorney Docket No. YUHO3001/EM
Title: BACKLIGHT MODULE DEVICE

DECISION ON PETITION

This is a decision on the petition filed on September 1, 2005, pursuant to 37 C.F.R. §1.182, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The file record discloses that application No. 10/242,716 matured into U.S. Patent No. 6,820,992 on November 23, 2004. The electronic records further reveal that on that same day, the Patent Grant was mailed to the address of record. However, petitioner requests a duplicate, contending that the Letters Patent was not received.

Petitioner has set forth that the original Letters Patent was not received. Petitioner has included a portion of the petition fee, and has set forth that a diligent search of both the file jacket and the docket records has been performed and the Letters Patent was not located.

The fee associated with the filing of a petition under 37 C.F.R. §1.182 is $400. Petitioner has submitted payment in the amount of $130, and has not authorized the Office to charge any deficiency to a deposit account.

The petition is **DISMISSED**.

On renewed petition, Petitioner must either submit the remaining $270 or submit a copy of the file jacket along with the docket record where the nonreceived Letters Patent would have been entered had it been received. A docket report is a mail log, recorded by the person who receives all incoming mail. A docket report should show all incoming mail received during the relevant time period, in order to establish that the correspondence at issue was not received, and merely misplaced and filed with another file.

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

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski and may be submitted by mail[1], hand-delivery[2], or facsimile[3].

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09-03-08

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/242725 Patent No.: ~~7149009~~ 7,208,787

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

FOR IFW FILES: X

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

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

FOR PAPER FILES:

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

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

A Green
Certificates of Correction Branch
703-308-9390 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

Douglas W. Owens — SPE
2821 — 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

HOGAN & HARTSON LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEEN ST.
DENVER, CO 80202

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NOV 23 2005

OFFICE OF PETITIONS

In re Application of :
Sheinis, et al. :
Application No. 10/242,748 : ON PETITION
Filed: September 13, 2002 :
Attorney Docket No. 80168.0344 :

This is a decision on the petition under 37 CFR 1.181, filed September 30, 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 non-final Office action mailed January 26, 2005. Accordingly, this application became abandoned on April 27, 2005. A Notice of Abandonment was mailed on October 3, 2005

Petitioner asserts the Office action was never received and that the Office mailed the action to the wrong address. Petitioner contends a "Power of Attorney by Assignee and Revocation of Previous Powers" was filed on August 28, 2003. In support, petitioner has submitted a copy of a date-stamped postcard receipt that indicates the "Power of Attorney by Assignee and Revocation of Previous Powers" was received by the Office on September 2, 2003. However, the "Power of Attorney by Assignee and Revocation of Previous Powers" is not found in the application file. As such, the Office action was sent to an incorrect address. The Office sincerely apologizes for this error.

Accordingly, the petition is granted and the holding of abandonment is withdrawn.

This application is being forwarded to Technology Center 2100, for re-mailing of the January 26, 2005 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
P.O. Box 1450
Alexandria, VA 22313-1450
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HOGAN & HARTSON LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEEN ST.
DENVER, CO 80202

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NOV 2 3 2005

OFFICE OF PETITIONS

In re Application of :
Sheinis, et al. :
Application No. 10/242,748 : ON PETITION
Filed: September 13, 2002 :
Attorney Docket No. 80168.0344 :

This is a decision on the petition under 37 CFR 1.181, filed September 30, 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 non-final Office action mailed January 26, 2005. Accordingly, this application became abandoned on April 27, 2005. A Notice of Abandonment was mailed on October 3, 2005

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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
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MARC S. WEINER
BIRCH STEWART KOLASCH AND BIRCH LLP
8110 GATEHOUSE ROAD SUITE 500 E
FALLS CHURCH, VA 22042

COPY MAILED
AUG 24 2006
OFFICE OF PETITIONS

In re Application of :
Tohru Araki :
Application No. 10/242,754 : DECISION ON REQUEST
Filed: September 13, 2002 : TO WITHDRAW
Attorney Docket No. 2870-0216P : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §1.36(b), filed April 7, 2006.

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

A review of the file record indicates that the power of attorney to all the attorneys/agents of record associated with Customer No. 2292 was revoked by the assignee of the patent application on April 17, 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 inquires concerning this decision should be directed to Sherry D. Brinkley at 571-272- 3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK, NY 10001-7708

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

January 19, 2004

Browdy and Neimark
624 Ninth St., N.W.
Washington, D. C. 20001

In re Application of:
Schmidt et al
Serial No.: 10/242,793 On Petition
Filing Date: September 13, 2002
For: CONTROL EQUIPMENT FOR AN INDUSTRIAL SEWING

In response to the petition received by fax on October 27, 2004, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Non Provisional 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 application was abandoned in error. The office regrets any inconvenience this may have caused the client.

The application has been completed with the documents received on October 27, 2004 for release to Technology Center 2125.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

January 19, 2004

Browdy and Neimark
624 Ninth St., N.W.
Washington, D. C. 20001

In re Application of:
Schmidt et al
Serial No.: 10/242,793 On Petition
Filing Date: September 13, 2002
For: CONTROL EQUIPMENT FOR AN INDUSTRIAL SEWING

In response to the petition received by fax on October 27, 2004, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Non Provisional 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 application was abandoned in error. The office regrets any inconvenience this may have caused the client.

The application has been completed with the documents received on October 27, 2004 for release to Technology Center 2125.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

G.E. EHRLICH (1995) LTD.
c/o ANTHONY CASTORINA
SUITE 207
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

COPY MAILED

MAR 2 8 2003

OFFICE OF PETITIONS

In re Application of :
Mintz et al. :
Application No. 10/242,799 : ON PETITION
Filed: 13 September, 2002 :
Attorney's Docket No. 02/2392 9 :

This is a decision on the petition under 37 CFR 1.53(e) filed on 31 December, 2002, in response to the Notice to File Missing Parts of Nonprovisional Application mailed on 1 November, 2002.

The petition is granted.

The application was filed on 13 September, 2002.

Accordingly, on 1 November, 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 13 September, 2002, but that, inter alia, the duplicate sets of compact discs do not contain all of the files listed in the specification as shown on the disc directory printout showing file names, dates of creation and sizes.

In response, on 31 December, 2002, the present petition was filed. Petitioners assert that three (3) compact discs (CDS) were filed on 13 September, 2002, containing all of the files listed in the specification. In support, petitioners have provided a copy of their postcard receipt, bearing an Office-date stamp of 13 September, 2002, identifying the application by first named inventor's name, docket number, and invention title, and itemizing the filing of, inter alia, three CDS. Petitioner has also supplied two (2) duplicate sets of the three (3) CDS asserted to have been present on filing. Petitioners request that the application, including the three (3) CDS, be accorded a filing date of 13 September, 2002.

A review of the record reveals that no CD labeled Disc 2 of 3, has been located among the application papers received on 13

September, 2002. However, the evidence is convincing that the application papers deposited on 13 September, 2002, included Disc 2 of 3, which was subsequently misplaced in the Office. Therefore, the application, including Disc 2 of 3, is entitled to a filing date of 13 September, 2002. An examination of the copy of Disc 2 of 3 supplied with the present petition reveals that it contains the files listed on Page 233 of the specification.

The "Notice" mailed on 1 November, 2002, is withdrawn to the extent that it stated that some of the files listed in the specification appeared to have been omitted from the duplicate sets of compact discs.

The Office notes, however, that the table on Disk 3 of 3 does not appear to be in compliance with 37 CFR 1.58(b) in that the spatial relationship of the table elements is not maintained. As the table structure is unclear as presented, petitioners may wish to file a corrected disc in compliance with 37 CFR 1.58(b).

In view of the above, the petition is granted to the extent indicated. No petition fee has been charged and none is due.

Receipt of the transmittal letter in accordance with 37 CFR 1.52(e)(3)(ii) filed by facsimile on 25 March, 2003, is acknowledged.

The application will be processed and examined using the duplicate CDS marked "CD2 of 3" supplied with the petition filed on 31 December, 2002, as a part of the original disclosure. The copies of the other CDS supplied on 31 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 13 September, 2002, using the application papers filed on 13 September, 2002, and the duplicate copies of "CD2 of 3" supplied on 31 December, 2002.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DIW 09-03

Paper No. 6

G.E. EHRLICH (1995) LTD.
c/o ANTHONY CASTORINA
SUITE 207
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

COPY MAILED

SEP 22 2003

OFFICE OF PETITIONS

In re Application of	:	
Mintz, Xie, Dahari, Levanon,	:	
Freilich, Beck, Zhu, Wasserman,	:	DECISION REFUSING STATUS
Hermesh, Azar, and Bernstein	:	UNDER 37 CFR 1.47(a)
Application No. 10/242,799	:	AND
Filed: 13 September, 2002	:	NOTICE OF ABANDONMENT
Attorney Docket No. 02/23929	:	

This is in response to the petition under 37 CFR 1.47(a), received in the Office of Petitions on 16 September, 2003.

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

The above-identified application is **abandoned**.

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 request for reconsideration must include a petition to revive the above-identified application under 37 CFR 1.137, a renewed petition under 37 CFR 1.47(a), an oath or declaration in compliance with 37 CFR 1.63(a)(3), and the requisite petition fees under 37 CFR 1.17.

A review of the file reveals that on 1 November, 2002, the U.S. Patent and Trademark Office (USPTO) mailed a Notice to File Missing Parts of Application (Notice) to petitioner, which set forth a two (2) month period to submit an executed oath or declaration and a $130.00 surcharge under 37 CFR 1.16(e). A review of Office financial records reveals that a three (3) month extension of time was filed on 31 March, 2003. While the petition is dated 26 March, 2003, it does not contain a certificate of facsimile transmission in accordance with 37 CFR

1.8. Moreover, a close review of the papers received with the petition shows that the declaration signed by all inventors except non-signing inventor Mintz was received by facsimile transmission on 10 July, 2003, and the present petition was received by facsimile transmission on 16 July, 2003. As such, there is no paper present in the file or among the papers received with the petition that would indicate that the petition and declaration were filed on 26 March, 2003, or any other date prior to 16 and 10 July, 2003, respectively. Rather, the showing of record is that petitioners intended to timely reply to the Notice mailed on 1 November, 2002. Since the executed declaration and petition were received subsequent to the maximum extendable period for reply to the Notice, which expired on 2 June, 2002, the application became abandoned on 2 April, 2003, for failure to file a timely reply to the Notice mailed on 1 November, 2002. That is, as petitioners did not "include such complete and proper reply as the condition of the application" then required, this application is properly held abandoned.[1]

Accordingly, under the circumstances of this application, a petition to revive under 37 CFR 1.137 must accompany any renewed petition under 37 CFR 1.147(a). Unless petitioners can demonstrate that petitioner was "unavoidably" prevented from submitting a proper reply to the Notice, a petition under 37 CFR 1.137(b) is suggested.

While issues pertaining to acceptance of an incompletely executed declaration in, and according status to, an abandoned application under 37 CFR 1.47 are moot, in the interests of facilitating prosecution and conservation of PTO resources, the petition under 37 CFR 1.47(a) will be discussed on its merits.

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; and (4) a statement of the last known address of the non-signing inventor. The petition lacks items (1) set forth above.

With regards to item (1), petitioners state that the non-signing inventor refused in writing, via facsimile, to sign the

---

[1] 37 CFR 1.135(b).

declaration. A copy of the written refusal must be provided with any renewed 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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

G.E. EHRLICH (1995) LTD.
c/o ANTHONY CASTORINA
SUITE 207
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

COPY MAILED

OCT 2 8 2003

OFFICE OF PETITIONS

In re Application of	:	
Mintz, Xie, Dahari, Levanon,	:	
Freilich, Beck, Zhu, Wasserman,	:	DECISION REFUSING STATUS
Hermesh, Azar, and	:	UNDER 37 CFR 1.47(a)
Bernstein	:	AND
Application No. 10/242,799	:	NOTICE OF ABANDONMENT
Filed: 13 September, 2002	:	
Attorney Docket No. 02/23929		

This is in response to the petition under 37 CFR 1.181 and the renewed petition under 37 CFR 1.47(a), received in the Office of Petitions on 14 October, 2003.

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

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

Petition to Withdraw the Holding of Abandonment.

The application was held abandoned on 2 April, 2003, for failure to timely file a response to the Notice to File Missing Parts of Nonprovisional Application, mailed on 1 November, 2002, which set a two (2) month period for reply. On 26 March, 2003, petitioners filed a three (3) month extension of time. A petition under 37 CFR 1.47(a) was received on 10 July, 2003. As the petition was received after the expiration of the period for reply to the Notice mailed on 1 November, 2002, however, the petition was not a timely response.

Petitioners assert that a proper response was timely filed. In support, petitioners have provided an itemized postcard bearing an Office-date stamp of 31 March, 2003, itemizing the filing of, *inter alia*, a petition under 37 CFR 1.47(a), the extension of time fee previously received, and a declaration, in response to

the Notice to File Missing Parts of Nonprovisional Application. The postcard identifies the application by first named inventor's name, docket number, application number and filing date. Petitioners have also included an affidavit by Anthony Castorina, stating that he deposited the petition and declaration in the USPTO on 31 March, 2003.

As petitioners have provided convincing evidence that the petition was timely filed in the USPTO, the holding of abandonment is withdrawn.

Petition under 37 CFR 1.47(a).

Petitioners have shown that the non-signing inventor, Liat Mintz, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have shown, via the declaration of registered patent attorney Sol Sheinbein, that a copy of the application papers was sent to the last known address of the non-signing inventor. The non-signing inventor refused in writing, however, to sign the declaration naming him as a joint inventor.

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

The application is being forwarded to Technology Center 1600 for examination in due course.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

G.E. EHRLICH (1995) LTD.
C/O ANTHONY CASTORINA
SUITE 207
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

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APR 21 2004

OFFICE OF PETITIONS

In re Application of :
Liat Mintz et al :
Application No. 10/242,799 : DECISION ON PETITION
Filed: September 13, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 02/23929 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 27, 2004, to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be filed within TWO MONTHS from the mail date of this decision. Extensions of time are available pursuant to the provisions of 37 CFR 1.136(a).

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 petition fails to comply with item (1) above. More specifically, while notification has been given of the foreign filing, the petition fails to state the date of such foreign filing. Accordingly, the date of foreign filing must be supplied before the Office can make a decision on the appropriateness of the instant petition to revive.

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: Crystal Plaza Two, Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Wan Laymon at (703) 306-5685.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

G.E. EHRLICH (1995) LTD.
C/O ANTHONY CASTORINA
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2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

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JUN 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Liat Mintz et al :
Application No. 10/242,799 : DECISION ON PETITION
Filed: September 13, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 02/23929 :

This is a decision on the petition, filed June 14, 2004, which is being treated as a renewed petition under 37 CFR 1.137(b), to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on November 11, 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 previously rescinded.

This matter is being referred to Technology Center Art Unit 1631.

Any questions concerning this matter may be directed to Wan Laymon at (703) 306-5685.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

STOUT, UXA, BUYAN & MULLINS LLP
4 VENTURE, SUITE 300
IRVINE, CA 92618

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JUL 0 1 2003

OFFICE OF PETITIONS

In re Application of
Peter S. Sanguinetti
Application No. 10/242,867
Filed: September 13, 2002
Attorney Docket No. D-3045

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 27, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/810,301, filed March 16, 2001.

The petition is **GRANTED**.

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

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, 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 September 13, 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 applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional 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 1723 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional Application No. 09/810,301, filed March 16, 2001.

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

ATTACHMENT: Corrected Filing Receipt

#4 DW

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC 27 2002

MAILED

DEC 27 2002

Office of the Director
Group 3600

Timothy T. Tyson
Freilich, Hornbaker & Rosen
Suite 1220
10960 Wilshire Blvd.
Los Angeles, CA 90024

Paper No. 4

In re application of
Mike Gerutto
Application No. 10/242,873
Filed: September 16, 2002
For: CASE SYSTEM FOR ARTICLES AND METHOD OF USE

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed December 9, 2002 to make the above-identified application special. The delay in treating this petition is sincerely regretted.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed December 9, 2002 includes all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

snm : 12/26/02

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

Applicant : Kelly, Michael et al.
Appl No.: 10/242,876
Filed: September 13, 2002

DECISION GRANTING PETITION UNDER *37 CFR 1.84*

This decision is in response to the petition filed September 13, 2002 in the above-identified application. Petitioner requests that color drawings be accepted in accordance with 35 [*sic*, 37] C.F.R. 1.84(a)(2).

The petition states that color drawings of Figures 1-21 are necessary in order to completely and accurately represent the invention.

The petition complies with 37 C.F.R. 1.84(a)(2) in that it was accompanied by (1) the appropriate fee and (2) three sets of color drawings. The specification further includes the required text language set forth in 37 C.F.R. 1.84 (a)(2)(iii).

The papers filed on September 13, 2002 fulfill the requirements set forth in 37 C.F.R. 1.84(a)(2) and the petition is GRANTED.

Marc Hoff
Supervisory Patent Examiner, Art Unit 2857
Technology Center 2800

HAYNES AND BOONE, LLP
1000 LOUISIANA
SUITE 4300
HOUSTON TX 77002

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8-24-05

TO SPE OF : ART UNIT 2816

SUBJECT : Request for Certificate of Correction on Patent No.: 6806749

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

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

EVA JAMES

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

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

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

Comments:

The patent's sheets 1 of 3 to 3 of 3 show the approved annotated sheets instead of the replacement sheets submitted Mar 8 2004 (received on Mar 11). Changes to the specification and claims revert back to original wording, and/or amended changes, correcting inadvertent type errors when the patent was printed.

2816
SPE **Art Unit**

OIPE JC48 JAN 04 2005 PATENT & TRADEMARK OFFICE

19/242,880

COFC

DOCKET NO.:4402

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE MATTER OF THE PATENT

OF: Ullrich DRUSENTHAL

PATENT NO.: 6,806,749 B 2

ISSUE DATE: October 19, 2004

FOR: CIRCUIT ARRANGEMENT AND METHOD FOR GENERATING A TIME-LIMITED SIGNAL

Certificate
JAN 10 2005
of Correction

COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

December 29, 2004

Approved 7.27.06 TLE

REQUEST FOR THE ISSUANCE OF A CERTIFICATE OF CORRECTION UNDER 35 USC 254 AND CERTIFICATE OF MAILING

Dear Sir:

1) The above identified Patent contains printing errors by the USPTO. Please correct the errors as shown on the enclosed Form PTO-1050. For an explanation of the requested changes, please see **page 6 line 5 of the originally filed specification; and in our Response of March 8, 2004 see page 11 line 2, page 13 line 3, page 14 line 3, page 16 line 25, and page 19 claim 12 line 3; and see our Formal Drawing Transmittal letter of March 8, 2004 with enclosed drawing Replacement Sheets.**

2) Issuance of a Certificate of Correction as soon as possible will be much appreciated.

Respectfully submitted,
Ullrich Drusenthal - Patentee

By _____
Walter F. Fasse
Patent Attorney
Reg. No.: 36132
Tel. No.: 207-862-4671
Fax. No.: 207-862-4681
P.O. Box 726
Hampden, Maine 04444-0726

WFF:he/4402
Enclosures: postcard,
Form PTO-1050 (2x),
3 drawing Replacement Sheets

CERTIFICATE OF MAILING:
I hereby certify that this correspondence with all indicated enclosures is being deposited with the U. S. 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 indicated below.

M. Hellwig-Hill Dec. 29, 04
Name: M. Hellwig-Hill - Date: December 29, 2004

JAN 11 2005

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,806,749 B2

DATED : October 19, 2004

INVENTOR(S) : Drusenthal

Approved 7.27.06 TLE

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

In the Drawings
Replace (hand annotated) Figs. 1a, 1b, 2, 3, 4 and 5 with the attached Replacement Sheets of Figs. 1a, 1b, 2, 3, 4 and 5.

Column 5,
Line 60, after "of", replace "Fig. 1." by –Fig. 2.–;

Column 6,
Line 22, after "switch", replace "181" by –IS1–;

Column 7,
Line 35, after "Also", replace "." by –,–;

Column 8,
Line 32, after "first", replace "Switching" by –switching–;

Column 9,
Line 14, after "to", delete –err–;

Column 10,
Line 15, after "exceed a", insert " –preset–.

ADDRESS OF SENDER: FASSE PATENT ATTORNEYS, P.A.
P. O. BOX 726
Hampden, Maine 04444-0726 U.S.A.

PATENT NO.: 6,806,749

Form PTO 1050 (REV.3-82)

JAN 11 2005

OIPE JC40
JAN 04 2005
PATENT & TRADEMARK OFFICE

Approved
7.27.06
TLE

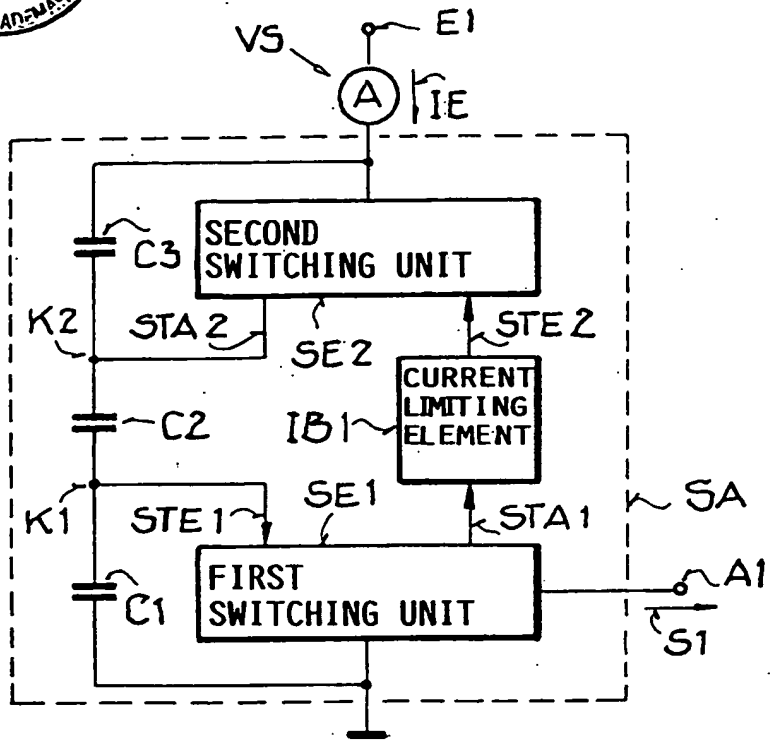

FIG. 1a

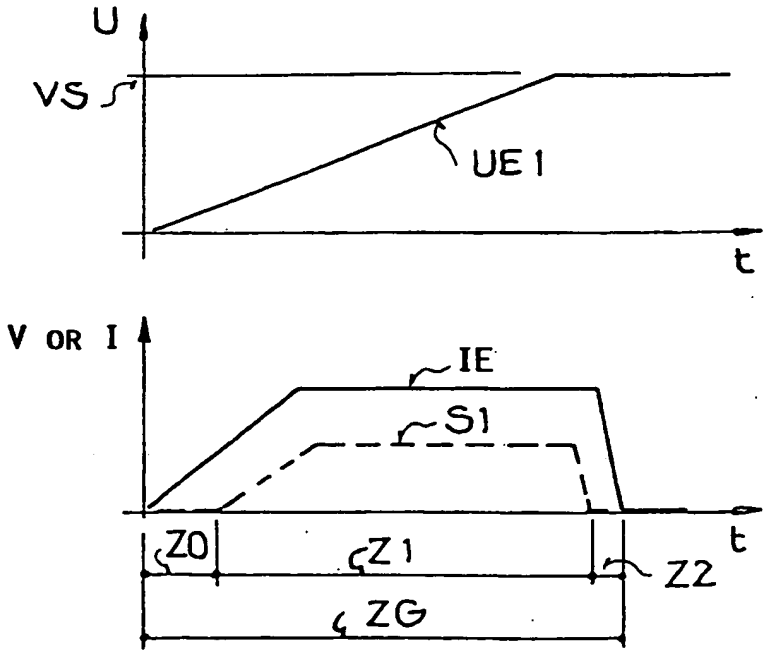

FIG. 1b

OIPE JC4R
JAN 04 2005
PATENT & TRADEMARK OFFICE

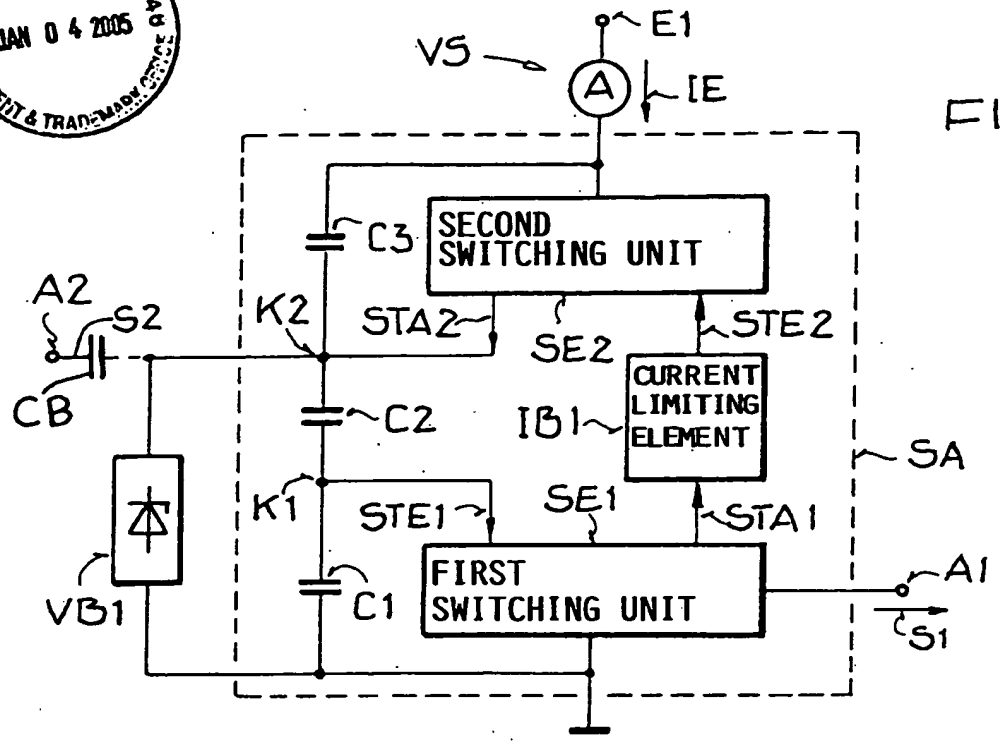

FIG. 2

Approved 7.27.06 LE

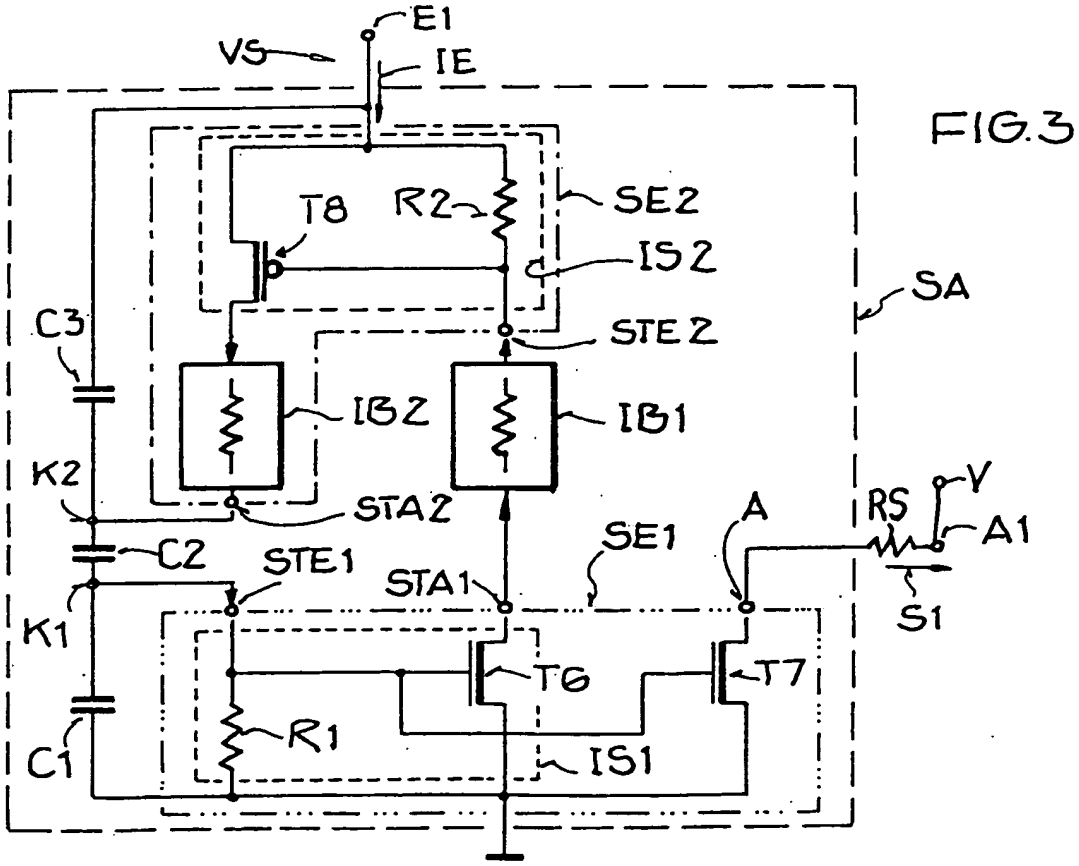

FIG. 3

OIPE JC48
JAN 04 2005
PATENT & TRADEMARK OFFICE

Approved
7.27.06
TLE

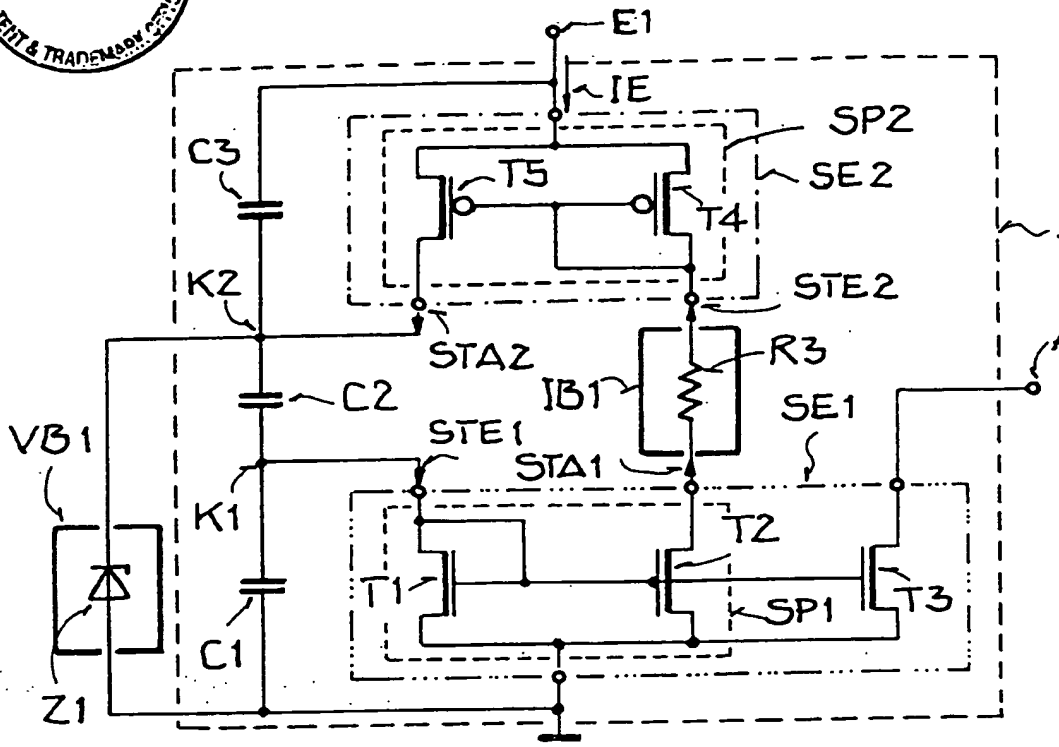

FIG.4

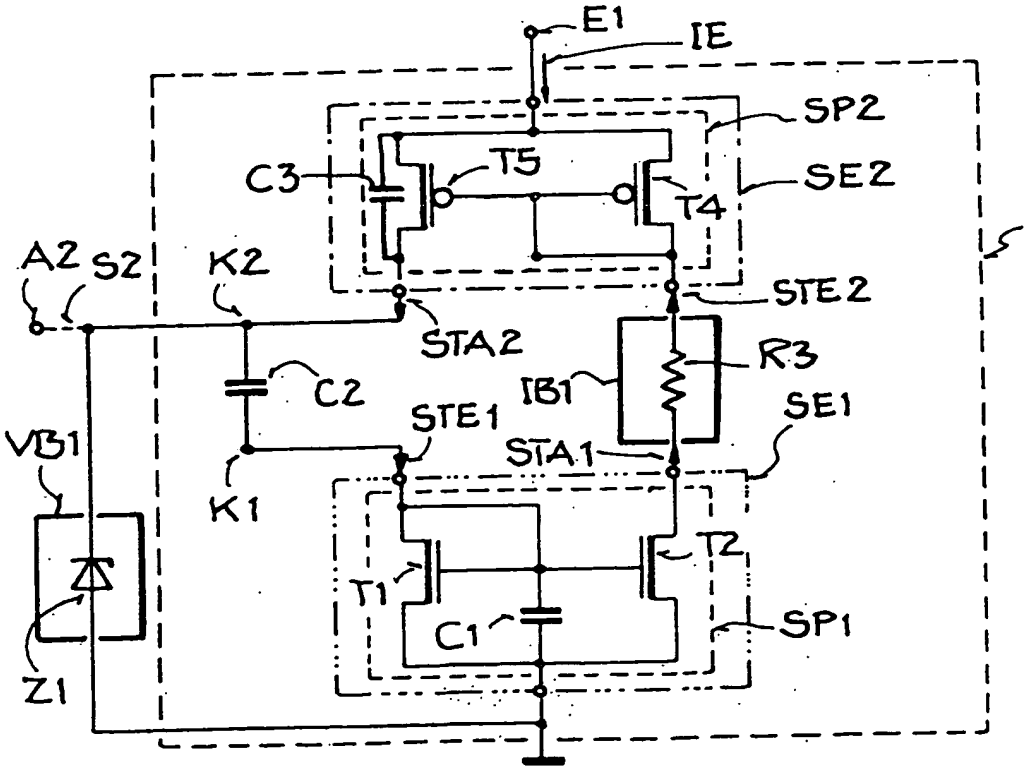

FIG.5

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FROM DIRECTORS OFFICE

JAN 26 2006

TECHNOLOGY CENTER 3600

BAKER & DANIELS, LLP
205 W. JEFFERSON BOULEVARD
SUITE 250
SOUTH BEND, IN 46601

In re application of
Richard J. Seavy
Application No. 10/242,888 : DECISION ON REQUEST
Filed: September 13, 2002 : FOR WITHDRAWAL OF
For: STRUCTURES INCORPORATING : ATTORNEY
INTERLOCKING WALL MODULES

This is a decision on the request filed on October 24, 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 **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

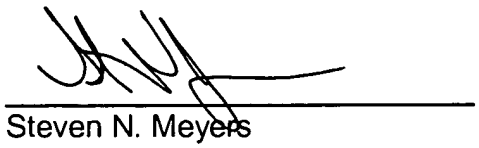
A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with Item A above.

As to Item A), Attorneys Michael S. Gzybowski and Arthur R. Whale currently have power of attorney in this application, however, are not listed under Customer Number 27268. Since these attorneys were omitted, it is unclear which attorneys are to be withdrawn and which, if any, are to retain power.



Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/dcg: 1/13/06

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ALEXANDRIA, VA 22313-1450
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BAKER & DANIELS, LLP
205 W. JEFFERSON BOULEVARD
SUITE 250
SOUTH BEND, IN 46601

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MAY 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Richard J. Seavy :
Application No. 10/242,888 :
Filed: September 13, 2002 :
Attorney Docket No. MEM0002 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 6, 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 Eric J. Groen on behalf of all attorneys or agents of record.

All the attorneys/agents associated with Baker & Daniels, LLP have been withdrawn.

Applicant is reminded that there is no attorney of record at this time. Therefore, all future correspondence will be directed to the sole inventor, Richard J. Seavy, at the address indicated below.

There is an outstanding Office action mailed April 20, 2006 that requires a reply from the applicant.

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

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee: David Bucci

cc: Richard J. Seavy
180 Air Park Drive
Wilsonville, AL 35186

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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TREXLER, BUSHNELL, GIANGIORGI,
BLACKSTONE & MARR, LTD.
105 W. ADAMS STREET
CHICAGO, IL 60603

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FEB 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Olsen, et al : DECISION ON PETITION
Application No. 10/242,903 :
Filed: September 13, 2002 :
Dkt. No.: 1171/40496/118 :

This is a decision on the "PETITION TO ACCEPTED UNINTENTIONALLY DELAYED PRIORITY CLAIM UNDER 37 C.F.R § 1.55(c)," filed December 29, 2003.

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

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

The instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application for which benefit is now sought within the later of four months from the actual filing date of the application or 16 months from the filing date of the prior foreign application[1]. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

The above-identified pending nonprovisional application was filed on September 13, 2002, which is after November 29, 2000 and within 12 months of September 13, 2001, the filing date of the foreign application for which benefit is now being claimed. On December 29, 2003, 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 $1,330.00 was received with the petition and the petition includes the required statement of unintentional delay.

All requirements having been met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 USC 119(a)-(d) and (f) is hereby **GRANTED**.

This application is being forwarded to Technology Center 3700 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 USC 119(a)-(d) and (f).

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

Brian Hearn, for

Charles Pearson
Director
Office of Petitions

[1] It is noted that the instant application misidentified the foreign application to which priority was claimed as New Zealand application No. 514814 rather than 514184.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/5/2010

TO SPE OF : ART UNIT 2436 David Cervetti

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/242920 Patent No.: 7350226

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

_____
Certificates of Correction Branch

703-756-1571 _____

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: _____

_____

_____

_____

_____

Nasser Moazzami
SPE

2436
Art Unit

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2800 WEST HIGGINS ROAD
SUITE 365
HOFFMAN ESTATES IL 60195

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OFFICE OF PETITIONS

In re Application of :
Harmesh K. Saini :
Application No. 10/242,955 : DECISION ON PETITION
Filed: September 13, 2002 :
Attorney Docket No.: Serie 5836 :

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

This above-identified application became abandoned for failure to timely file a reply to an Restriction Requirement mailed September 27, 2005. The Office Action set a one (1) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on October 28, 2005. A Notice of Abandonment was mailed on April 4, 2006.

This petition is hereby **GRANTED**.

Pursuant to petitioner's request, deposit account 01-1375 will be charged the $1500 petition to revive fee.

The Office hereby acknowledges the receipt of the Response to the Restriction and Election Requirement submitted with the instant petition.

The address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition. However, the Office will mail all future correspondence solely to the address of record.

This application is being forwarded to Technology Center 1700 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Linda K. Russell
2700 Post Oak Blvd.
Suite 1800
Houston, Texas 77056

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Paper No. 4

Lorri W. Cooper, Esq.
JONES, DAY, REAVIS & POGUE
North Point
901 Lakeside Avenue
Cleveland OH 44114

MAIL

FEB 0 2 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
BRIAN W. BROLLIER :
Application No. 10/242,964 : DECISION ON REQUEST TO
Filed: September 13, 2002 : WITHDRAW FROM RECORD
For: RFID ENABLED INFORMATION DISKS :

This is a decision on the request to withdraw as attorney/agent of record filed on July 22, 2003.

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

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, ***the request is granted.*** Future correspondence will be sent to the below listed address which has been provided by the withdrawing attorney(s).

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

cc: Kenneth R. Schaefer, Esq.
International Paper Company
1422 Long Meadow Road
Tuxedo, NY 10987

MW

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012004

Foley & Lardner
P.O. Box 80278
San Diego, CA 92138-0278

JAN - 7 2004

In re Application of)
Sanjay V. Patel et al.)
Application No. 10/242,966)
Filed: September 13, 2002)
Attorney Docket No. 024831-1301)

DECISIONREQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed April 9, 2003.

The request is APPROVED.

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 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 G. Peter Albert, Jr. on behalf of all attorneys of record who are associated with customer No. 30542.

All future communications from the Office will be directed to the new attorneys of record at the below-listed address until otherwise notified by applicant.

Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: CATALYST LAW GROUP, APC
4330 La Jolla Village Drive, Suite 220
San Diego, CA 92122

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TECHNOLOGY CENTER 3600

Albert W. Watkins
30844 NE 1st Avenue
St. Joseph, MN 56374

In re Application of
Lecy et al.
Application No. 10/242,995
Filed: September 12, 2002
For: PET HOOD

DECISION ON PETITION
TO REVIEW RESTRICTION
REQUIREMENT
UNDER 37 CFR 1.144

This is in response to appellants' Petition for Supervisory Review received November 14, 2004 requesting a review of the requirement for an election of species made in the Final Office action mailed March 18, 2004 and that the election requirement be withdrawn and previously withdrawn claims be considered on appeal.

The petition is **GRANTED.**

A review of the record indicates that the examiner required an election of species between the articles shown in Figures 1 (1-2) and 3. The examiner further required an election between the article shown in Figure 3 and the method of manufacturing the article. On July 8, 2003, appellants elected without traverse to prosecute the article shown in Figure 3 (claims 10-15). In the Office action mailed July 18, 2003, the examiner withdrew claims 1-9 as being drawn to the non-elected species of Figure 1-2, withdrew claims 16-20 as being drawn to the non-elected invention of the method of manufacturing the article of Figure 3 and rejected claims 10-15. In the amendment of November 18, 2003, the appellants canceled claims 1-9 and 16-20 and added new claims 21-32. In the Final Office action mailed March 18, 2004, the examiner indicated that claims 21-29 and 32 are directed to the non-elected species of Figure 1 and 2. Since appellant received an action on the merits for the originally elected species of Figure 3, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, the examiner withdrew claims 21-29 and 32 as being directed to a non-elected species.

Appellants contend that these claims are directed to the elected species of Figure 3. A review of claims 21 and 32 indicates that "said compliant and resilient neck encompassing member, said semi-rigid hood member, and forward enclosing member each comprised by a plurality of repeating segments of said resilient, semi-rigid mesh" recited in the claims is shown in Figure 3. Accordingly, claims 21-29 and 32 are directed to the elected species of Figure 3.

In view of the findings noted above, the restriction requirement with regard to claims 21-29 and 32 is vacated and the above-noted withdrawn claims are reinstated. Accordingly, the application will be returned to the examiner to withdraw the finality of the Office action of March 18, 2004 and reopen prosecution for consideration of claims 21-29 and 32. The Appellants' request that these claims be considered for appeal with the appropriate invention is therefore premature.

Donald T. Hajec, Director
Patent Technology Center 3600
(703) 306-4180

SNM/tl: 11/22/2004

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CO/AMC INTELLECTUAL PROPERTY GRP
500 QUEEN ST. SOUTH
BOLTON ON L7E 5S5
CANADA

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OCT 19 2006

OFFICE OF PETITIONS

In re Application of :
Kalemba, et al. :
Application No. 10/243,002 : ON PETITION
Filed: September 13, 2002 :
Attorney Docket No. H-655-0-US :

This is a decision on the petition under 37 CFR 1.137(b), filed July 3, 2006 (certificate of mailing date June 29, 2006), to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed January 9, 2006. Accordingly, this application became abandoned on April 19, 2006. A Notice of Abandonment was mailed on June 8, 2006.

Applicants have submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the January 9, 2006 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: RICHARD J. MUSGRAVE
HUSKY INJECTION MOLDING SYSTEMS, INC.
288 NORTH ROAD
MILTON, VT 05468

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HOWARD J. GREENWALD, P.C.
349 W. COMMERCIAL STREET, SUITE 2490
EAST ROCHESTER, NY 14445-2408

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OFFICE OF PETITIONS

In re Application of :
Stuart G. MacDonald :
Application No. 10/243,015 : DECISION ON PETITION
Filed: September 13, 2002 : TO WITHDRAW
Attorney Docket No. SGM-9 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 6, 2005.

The request is **APPROVED**.

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

The request was signed by Howard J. Greenwald, the sole attorney of record. 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 Irvin Dingle at (571) 272-3210.

Amelia Au
Petitions Examiner
Office of Petitions

cc: Michael L. Waeiner
Blophan Technologies, Inc.
150 Lucius Gordon Drive, Suite 215
West Henrietta, NY 14586

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Paper No. 5

Bryan A. Santarelli
GRAYBEAL JACKSON HALEY LLP
Suite 350
155-108th Avenue N.E.
Bellevue WA 98004-5901

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OFFICE OF PETITIONS

In re Application of
Kwon, et al.
Application No. 10/243,027
Filed: September 11, 2002
Attorney Docket No. 1768-22-3
For: OPTICAL COUPLING MODULE WITH SELF-ALIGNED ETCHED GROOVES AND METHOD FOR FABRICATING THE SAME

: DECISION GRANTING
: PETITION

This is a decision on the petition entitled, "PETITION UNDER 37 CFR 1.181(a) FOR WITHDRAWAL OF THE HOLDING THAT THE APPLICATION WAS FILED WITH AN OMITTED ITEM," filed January 2, 2003 (Express Mail date-in December 10, 2002). The petition will be treated as a petition under 37 CFR 1.182 to substitute the drawings in the Korean priority document for the drawings filed in the above-identified application on September 11, 2002.

The petition under 37 CFR 1.182 is **GRANTED**.

The application was deposited on September 11, 2002. On October 10, 2002, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Items in a Nonprovisional Application stating that the application had been accorded a filing date of September 11, 2002, but that it appeared to be missing drawing figure 6H.

In response, the instant petition was filed wherein petitioners state that drawing figure 6H is present, but mislabeled. Petitioners desire to change the label on original drawing figure 6G to 6H. As a result of the mislabeling, the drawing figure that is actually missing is drawing figure 6G. Petitioners wish to use a copy of drawing figure 6G from Korean application no. 2001-0056683 as drawing figure 6G in the above-identified case. Petitioners assert entitlement to a September 11, 2002 filing date for new drawing figure 6G because they claimed priority to the Korean application upon initial filing and they have attempted to incorporate the Korean application by reference in a preliminary amendment, filed December 10, 2002.

While it is true that petitioners claimed benefit of the Korean application, there is no incorporation by reference statement found in the transmittal letter or in the specification. The mere reference in an application to another application is not an incorporation of anything contained in the other

application into the referencing application. See In re Seversky, 177 USPQ 144, 146 (C.C.P.A. 1973) and Dart Industries, Inc. v. Banner, 207 USPQ 273, 276 (D.C. Cir. 1980). Therefore, the fact that applicants claimed foreign priority benefit in the papers filed on September 11, 2002 based on Korean application no. 2001-0056683 does not mean that applicants incorporated-by-reference into the papers filed in the present application on September 11, 2002, anything disclosed in the Korean application. The late incorporation by reference statement found in the preliminary amendment, filed December 10, 2002 cannot circumvent this outcome. In the future petitioners are encouraged to submit an incorporation by reference statement in the specification or the transmittal letter on initial filing.

Nevertheless, a physical copy of Korean application no. 2001-0056683 was filed on September 11, 2002 as a priority document. Pursuant to 37 CFR 1.52(d), a nonprovisional application may be in a language other than English. This foreign application appears to contain the same drawings as those found in the above-identified application, in addition to the figure missing from the above-identified application, but supposed to be part of the above-identified application.

A review of the original drawings filed in the above-identified application reveals that they are not acceptable because the labels for some figures are on different pages from the actual figure. This fact, taken in conjunction with the mislabeling of drawing figure 6H and the absence of drawing figure 6G, led the undersigned to copy all the drawings from Korean application no. 2001-0056683 and to substitute them for the original drawings filed on September 11, 2002. **Petitioners must file a supplemental declaration executing both the original application papers and the Korean priority document because the drawings found in the Korean priority document are now part of the original disclosure.**

This application is subject to pre-grant publication. The Korean application drawings are acceptable for filing date purposes, but they are not acceptable for publication purposes. The Korean application drawings contain Korean text and are not in compliance with 37 CFR 1.84. Petitioners should file a petition under 37 CFR 1.182 requesting substitution of drawings. The petition fee is $130.00. See MPEP 507 The petition should be sent to:

Box PGPUB DRAWINGS
Commissioner for Patents
Washington, DC 20231

The preliminary amendment, filed December 10, 2002, is moot, because a complete substitution of drawings has occurred.

This application is being returned to the Office of Initial Patent Examination for further processing, using the Korean application drawings. OIPE will mail out a Notice informing petitioners of any required changes to the drawings.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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BELL, BOYD & LLOYD LLP
P.O. Box 1135
CHICAGO, IL 60690

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MAR 26 2008

In re Application of :
Kunal Mishra :
Application No.: 10/243,070 : ON PETITION
Filed: September 12, 2002 :
Attorney Docket No.: 112300-4536 :

This is a decision on the petition, filed March 24, 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 March 10, 2008, 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 3714 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 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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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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OFFICE OF PETITIONS

In re Patent No. 7,525,987	: DECISION ON REQUEST FOR
Sami Ala-Luukko	: RECONSIDERATION OF
Issue Date: April 28, 2009	: PATENT TERM ADJUSTMENT
Application No. 10/243,071	: AND NOTICE OF INTENT TO ISSUE
Filed: September 12, 2002	: CERTIFICATE OF CORRECTION
Attorney Docket No. 088245-3119	:

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed June 26, 2009. Patentees request that the determination of patent term adjustment for the above-identified patent be corrected from one thousand one hundred twenty-seven (1,127) days to one thousand eight hundred twenty-three (1,823) days.

Preliminarily, patentees request that the Office defer or delay a decision on this request for reconsideration until a final decision has been rendered in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C. 2008), which is now on appeal at the U.S. Court of Appeals for the Federal Circuit, under Federal Circuit Docket No. 2009-1120. However, the Office notes that there is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED** to the extent indicated herein.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer**, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

The 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 **1,141 days**.

On April 28, 2009, the above-identified application matured into U.S. Patent No. 7,525,987 with a revised patent term adjustment of 1,127 days.

On June 26, 2009, patentees timely submitted this request for reconsideration of patent term adjustment within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees aver that the correct number of days of Patent Term Adjustment is 1,823 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the total non-overlapping PTO delay under 35 U.S.C. 154(b)(1)(A) and (B) is 1,846 days as these periods do not occur on the same day. Further, patentees contend that the period of applicant delay is 23 days. Thus, patentees assert entitlement to 1,823 (1,823 - 23) days of patent term adjustment.

Implicit in patentee's request for recalculation of the patent term adjustment is the assertion that the reductions of period of adjustment of the patent term by 14 days for the filing of an Information Disclosure Statement (IDS) on January 9, 2009, and by 12 days for the filing of an IDS on March 12, 2009, were unwarranted.

Pursuant to 37 CFR 1.704(d):

> 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.

As to the IDS filed March 12, 2009, it is undisputed that patentees filed the IDS after the mailing of the notice of allowance on December 15, 2008. A review of the IDS filed March 12, 2009, reveals that it did not include the proper statement under 1.704(d). Specifically, the IDS was accompanied by the following statement:

> **The undersigned hereby states in accordance with 37 CFR § 1.97 that no** item of information contained in **this** information disclosure statement was cited in **a** communication from a foreign patent office in a counterpart foreign application and, **to the knowledge of the undersigned, after making reasonable inquiry, no item of information contained in the information disclosure statement was known to** any individual designated in 37 CFR § 1.56(c) more than **three months** prior to the filing of the 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.

The statement accompanying the IDS filed March 12, 2009, does not contain the language required by 37 CFR 1.704(d). Accordingly, it is concluded that the period of reduction of 12 days is merited and will remain.

A review of the IDS filed January 9, 2009, reveals that it did include the proper statement under 1.704(d). Accordingly, it is concluded that the period of reduction of 14 days is not merited and will removed.

As to patentees' interpretation of the period of overlap, the Office finds that it is inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[1] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap

---

[1] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding 37 CFR 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a) on September 12, 2002, and ending on the date of filing the request for continued examination on December 1, 2008,(not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the

period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[2], 1036 days[3] of patent term adjustment were accorded during the pendency of the application for Office delay prior to the issuance of patent. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[4], 1,176 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

All of the 1,176 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 1,036 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 1,176 days and the 1036 days is neither permitted nor warranted. Accordingly, at issuance, The Office properly entered only an additional period of adjustment of 140 days for the Office taking in excess of three years to issue the patent for a total of 1,176 days.

---

[2] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

[3] A non-final Office action was mailed on September 13, 2006, 14 months and 1036 days after the application was filed on September 12, 2002.

[4] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application.

In view of the removal of the period of reduction of 14 days under 37 CFR 1.704(c)(10), the patent term adjustment indicated on the patent should be 1,141 days (1,176 days of Office delay - 35 (23+12) days of applicant delay).

The Office acknowledges the 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 1,141 days.

Telephone inquiries specific to this matter 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

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,525,987 B2

DATED : Apr. 28, 2009

INVENTOR(S) : Ala-Luukko

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 (1127) days

Delete the phrase "by 1127 days" and insert – by 1141 days--

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ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE, WI 53202

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AUG 3 1 2004

OFFICE OF PETITIONS

In re Application of :
Robert E. Hanson, et al. :
Application No. 10/243,093 :
Filed: September 13, 2002 :
Attorney Docket No. 4767-00003 :

ON PETITION

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

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

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

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

The application matter is being referred to the Publishing Division.

Retta Williams

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

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MAILED

MAR 23 2010

OFFICE OF PETITIONS

Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park CA 94025-1105

In re Application of	:	DECISION ON
Baker et al.	:	REQUEST FOR
Patent Number: 7,504,480	:	RECONSIDERATION OF
Issue Date: 03/17/2009	:	PATENT TERM ADJUSTMENT
Application No. 10/243095	:	and
Filing or 371(c) Date: 09/12/2002	:	NOTICE OF INTENT TO ISSUE
Attorney Docket Number: GNE-3630R1C43	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 18, 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 nine (609) 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 nine (609) days is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on September 13, 2005 and ends on July 26, 2006, the day before the RCE was filed, and is 317 (not 318) days. See, 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment for the "B" delay period is 317, not 318 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 Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificate 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 **six hundred eight (608)** days.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,504,480 B2

DATED : **March 17, 2009**

INVENTOR(S) : Baker 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 258 days.

Delete the phrase "by 258 days" and insert – by 608 days--

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Mailed: 3/18/05

In re Application of:

Michael J. Chanak :
Serial No.: 10/243,110 :
Filed: September 13, 2002 : **DECISION ON**
For: SMOKE SUPPRESSANT HOLT MELT ADHESIVE COMPOSITION : **PETITION**

This is a decision on the Petition and Supplement to Petition, filed December 9, 2002 and March 17, 2005, respectively, to correct inventorship under 37 CFR §1.48(a).

It is noted that the applicants have met the requirements of (i) a request to correct inventorship that sets forth the desired changes; (ii) statements from Michael J. Chanak and Cheryl L. Yarian Chase, who are being added as inventors, that the errors in inventorship occurred without any deceptive intent on their part; (iii) an oath or declaration by the actual inventors as required by 37 CFR §1.63; (iv) the processing fee set forth in 37 CFR 1.17(i); and (v) the written consent of the assignee under 37 CFR §3.73(b) (cf. the Supplement to Petition filed March 17, 2005).

Accordingly, the Petition is **GRANTED**.

Vasu Jagannathan
SPE
TC 1700

Julie Post
H.B. Fuller Company
1200 Willow Lake Blvd.
P.O. Box 64683
St. Paul MN 55164-0683

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

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JUN 3 0 2008

OFFICE OF PETITIONS

In re Application of :
Wolf :
Application No. 10/243,120 : ON PETITION
Filed: September 13, 2002 :
Attorney Docket No. NAPEMZ-002US :
For: APPARATUS, METHOD AND A COMPUTER READABLE MEDIUM FOR GENERATING MEDIA PACKETS

This is a decision on the petition under 37 CFR 1.181, filed March 25, 2008 (certificate of mailing date March 20, 2008), requesting that the Office withdraw the holding of abandonment of the above-identified application.

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

This application became abandoned as a result of petitioner's alleged failure to timely file a proper reply within three (3) months of the June 21, 2007 final Office action. A Notice of Abandonment was mailed on February 13, 2008.

Petitioner requests withdrawal of the holding of abandonment based on the assertion that a timely and proper submission was made on August 14, 2007. Applicant filed a Notice of Appeal and required fee and a Pre-Appeal Brief Request for Review on August 14, 2007.

Per 1296 O.G. 67 (July 12, 2005): Effective immediately, the USPTO is offering applicants an optional procedure to review the examiner's rejection prior to the actual filing of an appeal brief. The program is intended to spare applicants the added time and expense of preparing an appeal brief if a panel review determines an application is not in condition for appeal. This pilot program offers applicants an opportunity to request a review of identified matters on appeal employing an appeal conference currently employed in the Office, but prior to the filing of an appeal brief.

The Notice went on to explain: The request must be filed with the filing of a notice of appeal and before the filing of the appeal brief. No extensions of time are available for filing the request for review. The time period for filing an appeal brief will be reset to be one month from mailing of

the decision on the request, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of the decision on the request or the receipt date of the notice of appeal, as applicable. To the extent that any existing USPTO rule is inconsistent with this pilot program, the rule is waived until regulations directed to pre-appeal brief conferences are promulgated, or the pilot program is ended. For example, if a request for a pre-appeal brief conference is filed with a notice of appeal, the time period set in 37 CFR 41.37(a)(1) is waived so that an appeal will not stand dismissed if an appeal brief is not filed within two months of the filing date of a notice of appeal, but is filed within one month of the decision on the request.

The USPTO extended the pilot pre-appeal brief conference program until further notice in an O.G. Notice (February 7, 2006).

The application is not abandoned because there has been no decision on the August 14, 2007 Pre-Appeal Brief Request for Review. Thus, the time period for filing an appeal brief will be one month from the decision on the request.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the February 13, 2008 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

The application file will be forwarded to Technology Center A.U. 2616 for decision on the August 14, 2007 Pre-Appeal Brief Request for Review.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

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

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)
6,674,376	2004-01-06	10/243,126	2002-09-13	SHBXX-001F

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	/MAN/	Date (YYYY-MM-DD)	2008-05-29
Name	MATTHEW A. NEWBOLES	Registration Number	36224

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. 6674376
Issue Date: January 6,2004
Application No. 10243126
Filed: September 13,2002
Attorney Docket No. MORPH1260

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

This is a decision on the electronic petition, filed May 29,2008 ,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 May 29,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DENTON L. ANDERSON
SHELDON & MAK PC
225 S. LAKE AVENUE – 9TH FLOOR
PASADENA, CA 91101

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MAR 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Wayne Spears :
Application No. 10/243,127 :
Filed: September 13, 2002 :
Attorney Docket No. 13882

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 3679.

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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CIRA CENTRE 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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OFFICE OF PETITIONS

In re Application of :
Nicolaides, et al. : DECISION ON PETITION
Application No. 10/243,130 :
Filed: September 13, 2002 :
Attorney Docket No. MOR-0130 :

This is a decision on the "PETITION TO WITHDRAW TERMINAL DISCLAIMER UNDER 37 CFR §1.182", filed April 2, 2007.

The petition under 37 CFR 1.182 is **GRANTED**.

The matter is being forwarded to Group Art Unit 1643. The examiner is directed to withdraw the terminal disclaimer over application No. 10/901,650.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Joel Ackerman
02558B-063110US
Townsend and Townsend and Crew LLP
Two Embarcadero Center, Eight Floor
San Francisco, CA 94111-3834

Application Number: 10/243,145
Filing Date: September 13, 2002
In re Application: WATKINS ET AL.

DECISION ON PETITION

This is a decision on the petition, filed May 26, 2004, to correct inventorship under 37 CFR 1.48(a).

The petition is granted.

In accordance with the petitioner's request, Richard B. Edwards will be listed in the above identified application as a joint inventor.

Long V. Le
Supervisory Patent Examiner
Art Unit 1641
(571) 272-0823

UNITED STATES PATENT AND TRADEMARK OFFICE

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
Michael I. Watkins et al. :
Application No. 10/243,145 : DECISION ON PETITION
Filed: September 13, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 02558B-063110US :

This is a decision on the petition filed December 21, 2005, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed non-provisional application set forth in the amendment filed July 14, 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, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is

a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications.

The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) as it only states that Application Serial No. 09/548,883 is related to, and claims the priority of Application Serial No. 09/302,920, therefore it is unacceptable.

Before the petition under 37 CFR §§ 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 or 37 CFR 1.76(b)(5)) to correct the above matters are required.

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

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

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 inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Frances Hicks
Petitions Examiner
Office of Petitions

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JUN 22 2007

OFFICE OF PETITIONS

In re Application of :
Michael I. Watkins et al. :
Application No. 10/243,145 : DECISION ON PETITION
Filed: September 13, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 02558B-063110US :

This is a decision on the petition to revive under 37 CFR 1.137(b) and on the renewed petition under 37 CFR 1.78(a)(3), filed December 26, 2006, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the Supplemental Application Data Sheet filed December 26, 2006.

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

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

This application became abandoned November 11, 2005 for failure to timely reply to the non-Final Office Action mailed August 10, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment .

This petition is being dismissed because it does not satisfy requirement (1) under 37 CFR 1.137(b)[1].

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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);

On petition applicant states that if the priority claim is accepted, applicant believes the outstanding rejections would be obviated and the claims allowable. However, applicant only submits the petition and does not submit a response to the August 10, 2005 office action. A petition is not a proper response to an office action. Petitioner must set forth his argument that the rejections would be obviated, and the claims allowable with the granting of a petition under 37 CFR 1.78 in a response.

Before the petition under 37 CFR 1.137(b) can be granted a required reply under 37 CFR 1.137(b)(1) must be submitted.

The petition under 37 CFR 1.78(a)(3) is **DISMISSED**.

A petition under 37 CFR 1.78(a)(3), filed December 21, 2005, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed December 21, 2005 was dismissed in a decision mailed December 12, 2006 because the concurrently filed amendment failed to properly state the relationship between the later filed application to the prior filed applications for which priority was claimed.

Comes now petitioner with the instant renewed petition and a Supplemental Application Data Sheet.

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.

---

(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)).

Before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition and either a Supplemental Application Data Sheet (signed in compliance with 37 CFR 1.33(b) and in compliance with 37 CFR 1.76) or a substitute amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

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

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

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

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

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, VA22313-1450
www.uspto.gov

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

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DEC 10 2007

OFFICE OF PETITIONS

In re Application of :
Michael I. Watkins et al. :
Application No. 10/243,145 : DECISION ON PETITION
Filed: September 13, 2002 :
Attorney Docket No. 02558B-063110US :

This is a decision on the renewed petition filed August 14, 2007, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed non-provisional application set forth in the amendment filed August 14, 2007 and on the renewed petition under 37 CFR 1.137(b), to revive the above-identified application.

The petitions are **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.

A petition filed December 26, 2006 was dismissed in a decision mailed June 22, 2007 because the concurrently filed amendment failed to properly state the relationship between the earlier filed applications.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed co-pending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications.

Comes now petitioner with the instant renewed petition and Substitute Amendment properly stating the relationship between the instant application and non-provisional application 09/302,920 as required by 35 U.S.C. § 120.

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

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

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

Additionally, the application became abandoned November 11, 2005 for failure to reply to the non-Final Office Action mailed August 10, 2005. Accordingly, a Notice of Abandonment was mailed July 24, 2007. Comes now petitioner with a response to the non-Final Office Action. In view of the response filed with the instant petition , and all other requirements under 37 CFR 1.137(b) having been met, this matter is being

referred to Technology Center 1641 for appropriate action on the Substitute Amendment and response filed August 14, 2007, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/243,145	09/13/2002	1641	740	02558B-063110US	3	1

CONFIRMATION NO. 4261

CORRECTED FILING RECEIPT

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 10/24/2007

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

Applicant(s)

Michael I. Watkins, Vacaville, CA;
Suknan S. Chang, Oakland, CA;
Renato B. Del Rosario, Benicia, CA;
Patricia A. Miranda, Novato, CA;
Timothy D. Knight, Benicia, CA;

Assignment For Published Patent Application

Bio-Rad Laboratories, Inc., Hercules, CA

Power of Attorney: The patent practitioners associated with Customer Number 20350

Domestic Priority data as claimed by applicant

This application is a DIV of 09/548,883 04/13/2000 PAT 7,271,009
which is a CIP of 09/302,920 04/30/1999 PAT 6,280,618

Foreign Applications

If Required, Foreign Filing License Granted: 10/08/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/243,145**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Multi-analyte diagnostic test for thyroid disorders

Preliminary Class

436

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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www.uspto.gov

Paper No.

Francis C. Hand, Esq.
c/o Carella, Byrne, Bain, Gilfillan,
Cecchi, Stewart & Olstein
6 Becker Farm Road
Roseland, NJ 07068

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FEB 12 2003

OFFICE OF PETITIONS

In re Application of
Parizat et al.
Application No. 10/243,206
Filed: September 13, 2002
Title: VARIABLE OUTPUT INFLATOR

In re Application of
Parizat et al.
Application No. 10/243,154
Filed: September 13, 2002
Title: AIR BAG INFLATOR

DECISION ON PETITION
UNDER 37 CFR 1.182

This is a decision on the petition filed October 18, 2002, requesting that the above-identified applications be accorded filing dates of September 13, 2002, with the drawings erroneously filed in application No. 10/243,154 transferred to application No. 10/243,206 and the drawings erroneously filed in application No. 10/243,206 transferred to application No. 10/243,154[1]. The petition is being treated as a petition under 37 CFR 1.182.

Application papers in the above-identified application were filed on September 13, 2002. However, on October 11, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)

[1] Alternatively, petitioner has filed a Request to Substitute Drawings for entry into the file of this application to supply drawings based on the specification and claims. Or, petitioner requests that a filing date be granted to the above-identified application as filed on September 13, 2002 since drawings are not necessary in either application for an understanding of the subject matter sought to be patented in view of the detailed description of the claimed subject matter. Given the disposition of the request to transfer drawings, consideration of these alternative requests is unnecessary.

in a Nonprovisional Application," notifying applicants that the application papers had been accorded a filing date; however, figures 3 and 4 described in the specification appeared to have been omitted from the application.

In response, applicants' attorney, Francis Hand, timely filed the instant petition, explaining that both application No. 10/243,206 and 10/243,154 were deposited by Express Mail on September 13, 2002. However, upon depositing the two companion applications, both the drawings (and the declarations) for the applications were apparently inadvertently switched. The drawings (and declaration) for application No. 10/243,206 were submitted with the papers for application No. 10/243,154 and vice versa.

The application cover sheet for application No. 10/243,206 itemizes the filing of two (2) sheets of drawings. Two (2) sheets of drawings are located in the application file. Likewise, the application cover sheet for application No. 10/243,154 itemizes the filing of two (2) sheets of drawings. Two (2) sheets of drawings are located in the application file.

It is noted, however, that the specification filed in application No. 10/243,206 describes four (4) drawing figures, while only two (2) drawing figures were present on filing. Likewise, the specification filed in application No. 10/243,154 describes two (2) drawing figures, while four (4) drawing figures were present on filing. It is obvious that neither application was individually complete on the date of deposit, *i.e.*, on September 13, 2002, since the drawings described in the specifications were not received with the respective specifications. However, since the drawings were in fact present in the USPTO on September 13, 2002, the applications may be accorded filing dates of September 13, 2002, on petition under 37 CFR 1.182.

Moreover, a review of the specification reveals that the invention disclosed in application No. 10/243,154 is entitled "Air Bag Inflator." However, the declaration for an invention entitled "Variable Output Inflator" was filed in application No. 10/243,154. Likewise, a review of the specification reveals that the invention disclosed in application No. 10/243,206 is entitled "Variable Output Inflator," but the declaration for an invention entitled "Air Bag Inflator" was filed in application No. 10/243,206. It is noted that both declarations are signed by the same inventors, Amnon Parizat and Marek Tarczyinski.

The two (2) sheets of drawings (figures 1-4) filed September 13, 2002, in application No. 10/243,154 have been removed and transferred to application No. 10/243,206. The declaration for an invention entitled "Variable Output Inflator" in application

No. 10/243,154 has been removed and transferred to application No. 10/243,206.

The two (2) sheets of drawings (figures 1-2) filed September 13, 2002, in application No. 10/243,206 have been removed and transferred to application No. 10/243,154. The declaration for an invention entitled "Air Bag Inflator" in application No. 10/243,206 has been removed and transferred to application No. 10/243,154

Application 10/243,206 will be reprocessed with the two (2) sheets of transferred drawings, containing Figures 1-4 filed on September 13, 2002.

Likewise, application 10/243,154 will be reprocessed with the two (2) sheets of transferred drawings, containing Figures 1-2 filed on September 13, 2002.

The petitions are **granted** to the extent indicated above.

As this petition was necessitated by applicants' filing error, the petition fee will not be refunded.

Application No. 10/243,206 is being forwarded to the Office of Initial Patent Examination for reprocessing with a filing date of September 13, 2002, using the two (2) sheets of drawings containing Figures 1-4 filed on September 13, 2002, and for correction of Office records to indicate that two (2) sheets of drawings, containing 4 figures, were filed on that date. The application file will be forwarded to a Technology Center for examination after the completion of pre-examination processing.

Application No. 10/243,154 is also being forwarded to the Office of Initial Patent Examination for reprocessing with a filing date of September 13, 2002, using the two (2) sheets of drawings containing Figures 1-2 filed on September 13, 2002, and for correction of Office records to indicate that two (2) sheets of drawings, containing 2 figures, were filed on that date. Thereafter, the application file will be forwarded to Technology Center 3616 for examination in due course.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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

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MAY 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Ayman F. Naguib	:	
Application No. 10/243,173	:	DECISION GRANTING PETITION
Filed: September 12, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 14303.0121	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 5, 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 November 14, 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 2611 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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Delbert J. Barnard
Barnard & Pauly, P.S.
P. O. Box 58888
Seattle, WA 98138-1888

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JAN 10 2005

OFFICE OF PETITIONS

In re Application of :
Duke W. Goss :
Application No. 10/243,177 : ON PETITION
Filed: September 13, 2002 :
Attorney Docket No. GOSS "C" :

This is a decision on the petition under 37 CFR 1.137(b), filed September 14, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to the Publishing Division to be processed into a patent.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Carella, Byrne, Bain, Gilfillan,
Cechhi, Stewart & Olstein
6 Becker Farm Road
Roseland, NJ 07068

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NOV 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Irving R. Michlin, et al. :
Application No. 10/243,179 : ON PETITION
Filed: September 13, 2002 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed September 7, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to the Publishing Division to be processed into a patent.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Francis C. Hand, Esq.
c/o Carella, Byrne, Bain, Gilfillan,
Cecchi, Stewart & Olstein
6 Becker Farm Road
Roseland, NJ 07068

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FEB 12 2003

OFFICE OF PETITIONS

In re Application of :
Parizat et al. :
Application No. 10/243,206 : DECISION ON PETITION
Filed: September 13, 2002 : UNDER 37 CFR 1.182
Title: VARIABLE OUTPUT INFLATOR :
:
:
In re Application of :
Parizat et al. :
Application No. 10/243,154 :
Filed: September 13, 2002 :
Title: AIR BAG INFLATOR :

This is a decision on the petition filed October 18, 2002, requesting that the above-identified applications be accorded filing dates of September 13, 2002, with the drawings erroneously filed in application No. 10/243,154 transferred to application No. 10/243,206 and the drawings erroneously filed in application No. 10/243,206 transferred to application No. 10/243,154[1]. The petition is being treated as a petition under 37 CFR 1.182.

Application papers in the above-identified application were filed on September 13, 2002. However, on October 11, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)

[1] Alternatively, petitioner has filed a Request to Substitute Drawings for entry into the file of this application to supply drawings based on the specification and claims. Or, petitioner requests that a filing date be granted to the above-identified application as filed on September 13, 2002 since drawings are not necessary in either application for an understanding of the subject matter sought to be patented in view of the detailed description of the claimed subject matter. Given the disposition of the request to transfer drawings, consideration of these alternative requests is unnecessary.

in a Nonprovisional Application," notifying applicants that the application papers had been accorded a filing date; however, figures 3 and 4 described in the specification appeared to have been omitted from the application.

In response, applicants' attorney, Francis Hand, timely filed the instant petition, explaining that both application No. 10/243,206 and 10/243,154 were deposited by Express Mail on September 13, 2002. However, upon depositing the two companion applications, both the drawings (and the declarations) for the applications were apparently inadvertently switched. The drawings (and declaration) for application No. 10/243,206 were submitted with the papers for application No. 10/243,154 and vice versa.

The application cover sheet for application No. 10/243,206 itemizes the filing of two (2) sheets of drawings. Two (2) sheets of drawings are located in the application file. Likewise, the application cover sheet for application No. 10/243,154 itemizes the filing of two (2) sheets of drawings. Two (2) sheets of drawings are located in the application file.

It is noted, however, that the specification filed in application No. 10/243,206 describes four (4) drawing figures, while only two (2) drawing figures were present on filing. Likewise, the specification filed in application No. 10/243,154 describes two (2) drawing figures, while four (4) drawing figures were present on filing. It is obvious that neither application was individually complete on the date of deposit, *i.e.*, on September 13, 2002, since the drawings described in the specifications were not received with the respective specifications. However, since the drawings were in fact present in the USPTO on September 13, 2002, the applications may be accorded filing dates of September 13, 2002, on petition under 37 CFR 1.182.

Moreover, a review of the specification reveals that the invention disclosed in application No. 10/243,154 is entitled "Air Bag Inflator." However, the declaration for an invention entitled "Variable Output Inflator" was filed in application No. 10/243,154. Likewise, a review of the specification reveals that the invention disclosed in application No. 10/243,206 is entitled "Variable Output Inflator," but the declaration for an invention entitled "Air Bag Inflator" was filed in application No. 10/243,206. It is noted that both declarations are signed by the same inventors, Amnon Parizat and Marek Tarczyinski.

The two (2) sheets of drawings (figures 1-4) filed September 13, 2002, in application No. 10/243,154 have been removed and transferred to application No. 10/243,206. The declaration for an invention entitled "Variable Output Inflator" in application

No. 10/243,154 has been removed and transferred to application No. 10/243,206.

The two (2) sheets of drawings (figures 1-2) filed September 13, 2002, in application No. 10/243,206 have been removed and transferred to application No. 10/243,154. The declaration for an invention entitled "Air Bag Inflator" in application No. 10/243,206 has been removed and transferred to application No. 10/243,154

Application 10/243,206 will be reprocessed with the two (2) sheets of transferred drawings, containing Figures 1-4 filed on September 13, 2002.

Likewise, application 10/243,154 will be reprocessed with the two (2) sheets of transferred drawings, containing Figures 1-2 filed on September 13, 2002.

The petitions are **granted** to the extent indicated above.

As this petition was necessitated by applicants' filing error, the petition fee will not be refunded.

Application No. 10/243,206 is being forwarded to the Office of Initial Patent Examination for reprocessing with a filing date of September 13, 2002, using the two (2) sheets of drawings containing Figures 1-4 filed on September 13, 2002, and for correction of Office records to indicate that two (2) sheets of drawings, containing 4 figures, were filed on that date. The application file will be forwarded to a Technology Center for examination after the completion of pre-examination processing.

Application No. 10/243,154 is also being forwarded to the Office of Initial Patent Examination for reprocessing with a filing date of September 13, 2002, using the two (2) sheets of drawings containing Figures 1-2 filed on September 13, 2002, and for correction of Office records to indicate that two (2) sheets of drawings, containing 2 figures, were filed on that date. Thereafter, the application file will be forwarded to Technology Center 3616 for examination in due course.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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GUNNISON MCKAY & HODGSON, LLP
1900 GARDEN ROAD
SUITE 220
MONTEREY CA 93940

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In re Application of

DeJong, et al.

Application No. 10/243,218

Filed: September 13, 2002

Attorney Docket No. P-8723

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 12, 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 December 27, 2007, which set a shortened statutory period for reply of three-months from its mailing date. A response was filed on February 6, 2008. An Advisory Action mailed September 3, 2008, indicated that the response did not place the application in condition for allowance. No further responses were filed. The application became abandoned on March 28, 2008. A Notice of Abandonment was mailed on September 26, 2008.

The Request for Continued Examination filed September 12, 2008, is noted.

The application file is being forwarded to Technology Center 2100, GAU 2131 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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JACOBSON LLP
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NEW YORK NY 10004

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OFFICE OF PETITIONS

In re Application of	:	
James W. Dabney	:	
Application No. 10/243219	:	ON APPLICATION FOR
Filing or 371(c) Date: 09/13/2002	:	PATENT TERM ADJUSTMENT
Atty Docket No.:	:	
9998-5640-1	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT, filed October 8, 2009. Applicant submits that the proper patent term adjustment to be indicated on the patent is 2,153 days, not 1266 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. The application for patent term adjustment is properly treated under 37 C.F.R. § 1.705(b).

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 after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Attorney Derek Woods at (571) 272-3232.

/ALESIA M. BROWN/

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

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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.

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ONE NEW YORK PLAZA
NEW YORK, NY 10004

Mail Date: 05/03/2010

Applicant	: James W. Dabney	: DECISION ON REQUEST FOR
Patent Number	: 7653591	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/243,219	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2967** 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 26 2010

OFFICE OF PETITIONS

In re Application of	:	
James W. Dabney	:	ON REQUEST FOR
Patent Number: 7,653,591	:	RECONSIDERATION OF FINAL
Issue Date: 01/26/2010	:	PATENT TERM ADJUSTMENT
Application No. 10/243219	:	and
Filing or 371(c) Date: 09/13/2002	:	NOTICE OF INTENT TO ISSUE
Atty Docket No.:	:	CERTIFICATE OF CORRECTION
9998-5640-1	:	

This is a decision on the renewed petition filed on March 17, 2010, which is being treated as a renewed 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 two thousand two hundred thirty-five (2235) 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 two thousand two hundred thirty-five (2235) days is **GRANTED to the extent indicated herein.**

As to the "B" delay, the period is 1309 days, not 1596 days. This period begins on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a), and ends on the issue date of the patent, or 1596 days, but not including the number of days beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31, and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151, or 201 days. See, 35 U.S.C. 154(b)(1)(B)(ii). Thus, the "B" delay period is 1309 (1596 days – 287 days), not 1566 days[1].

Further as to the "B" delay, the period of adjustment is 1309 days; however, to the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of

[1] The Office notes that where a request for continued examination ("RCE"), has been filed, the period of appeal is only reduced if such appeal period occurred prior to the filing of the RCE. If no RCE has been filed, the period of appeal is reduced if it occurs at anytime during the pendency of application.

adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. 35 U.S.C. 154(b)(2)(A), 37 CFR 1.702(f). In this instance, the period of overlap is calculated beginning 287 days after the "B" period, or June 28, 2006, and the period of adjustment of 1202 days pursuant to 37 CFR 1.702(a)(1) overlaps with the period of adjustment pursuant to 37 CFR 1.702(b) for a period of 245 days. As such, the patent term adjustment is 2297, not 2235 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 Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being 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 **two thousand two hundred ninety-seven (2297) days**.

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

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,653,591 B1

DATED : **January 26, 2010**

INVENTOR(S) : Dabney

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 1566 days.

Delete the phrase "by 1566 days" and insert – by 2297 days--

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OFFICE OF PETITIONS

In re Application of	:	
James W. Dabney	:	ON REQUEST FOR
Patent Number: 7,653,591	:	RECONSIDERATION OF FINAL
Issue Date: 01/26/2010	:	PATENT TERM ADJUSTMENT
Application No. 10/243219	:	and
Filing or 371(c) Date: 09/13/2002	:	NOTICE OF INTENT TO ISSUE
Atty Docket No.:	:	CERTIFICATE OF CORRECTION
9998-5640-1	:	

This is a decision on the renewed petition filed on March 17, 2010, which is being treated as a renewed 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 two thousand two hundred thirty-five (2235) 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 two thousand two hundred thirty-five (2235) days is **GRANTED to the extent indicated herein**.

On December 18, 2009 the Office mailed a "DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT and NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION" indicating that the patent term adjustment had been determined to be 2297 days.

On May 3, 2010, the Office mailed a "DECISION ON REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION" indicating that the patent term adjustment had been determined to be 2967 days.

The Office notes that the decision of April 26, 2010 erroneously accorded patentee 61 more days of patent term adjustment than were warranted. The 61 additional days of adjustment has been removed. Accordingly, the decision of May 3, 2010, is vacated.

The Office further notes that the decision of May 3, 2010, was issued in error as it accorded patentee 731 more days of patent term adjustment than were warranted. Accordingly, the decision of May 3, 2010, is withdrawn. The present decision supersedes the decision mailed on May 3, 2010.

The Office has determined that the patent term adjustment for the above-identified patent is **2236 days**. The 731 additional days of adjustment will be removed.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being 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 **two thousand two hundred thirty-six (2236) days**.

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

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,653,591 B1

DATED : **January 26, 2010**

INVENTOR(S) : Dabney

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 1566 days.

Delete the phrase "by 1566 days" and insert – by 2236 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4-22-09 Paper No.: _____

TO SPE OF : ART UNIT 1635

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/243236 Patent No.: 7491797

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Should Req. be granted?

E. James
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.

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

Comments: Approved

/Tracy Vivlemore/ — **SPE**

1635 — **Art Unit**

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555 Twelfth Street, N.W.
Washington DC 20004-1206

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OFFICE OF PETITIONS

In re Patent No. 7,491,797	:	DECISION ON REQUEST FOR
Goddard et al.	:	RECONSIDERATION OF
Issue Date: February 17, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/243,236	:	NOTICE OF INTENT TO ISSUE
Filed: September 12, 2002	:	CERTIFICATE OF CORRECTION
Atty Docket No. GNE-3630.035.	:	

This is a decision on the petition filed on April 17, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred twenty-seven (527) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent** that the term of the above-identified patent is extended or adjusted by five hundred twenty-six (526) days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on September 13, 2005, and ends on August 1, 2006, the day before the RCE was filed, and is 323 (not 324) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 526, not 527 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or

patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The required fee of $200.00 pursuant to 37 CFR 1.18(e) will be charged to the Deposit Account as authorized.

This matter is being referred 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 **five hundred twenty-six (526) days.**

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,491,797 B2

DATED : Feb. 17, 2009 **DRAFT**

INVENTOR(S) : Goddard 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 203 days

Delete the phrase "by 203 days" and insert – by 526 days--

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Paper No. 8

KOHN & ASSOCIATES
SUITE 410
30500 NORTHWESTERN HIGHWAY
FARMINGTON HILLS, MI 48334

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OFFICE OF PETITIONS

In re Application of :
Elizabeth Paul :
Application No. 10/243,270 : ON PETITION
Filed: September 12, 2002 :
Attorney Docket No. 0769.00146 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 2, 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 December 2, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 3, 2003.

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, the $475 extension of time submitted with the petition on June 2, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account number 11-1449 as authorized.

The application file is being forwarded to Technology Center 1600, Art Unit 1616 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

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OFFICE OF PETITIONS

In re Application of :
Anh Si Le :
Application No. 10/243,300 : ON PETITION
Filed: September 13, 2002 :
Attorney Docket No.: SPI-151 (4289*151) :

This is a decision on the petition filed November 3, 2005 under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application.

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

The application was held abandoned on May 13, 2005, for failure to file a timely reply to the Notice to File Corrected Application Papers, mailed April 12, 2005. A 30 day period for reply was set. Accordingly, a Notice of Abandonment was mailed on September 20, 2005.

Petitioner asserts that a response was mailed April 15, 2005 and that a signed oath or declaration was submitted with the original application papers. In support, petitioner has submitted, *inter alia*, a copy of a post card receipt, date stamped April 28, 2005 by the USPTO, and cover page used for submitting the response (oath or declaration).

A search of the application file and the USPTO records reveals that a Notice to File Missing Parts was mailed October 17, 2002 requesting a signed oath or declaration and that a response was filed November 27, 2002 that purported to file the missing oath or declaration.

It appears, with proof that petitioner has tried to submit a signed oath or declaration on a number of occasions, but for some reason, there is still not a signed oath or declaration in the file. The petition to withdraw the holding of abandonment cannot be granted until such time as a proper response in the form of a signed oath or declaration has been filed.

Since this application has been allowed, upon the filing of a signed oath or declaration, this matter will be referred to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Anh Si Le :
Application No. 10/243,300 : ON PETITION
Filed: September 13, 2002 :
Attorney Docket No.: SPI-151 (4289*151) :

This is a decision on the request for reconsideration, filed November 22, 2005 under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application.

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

The application was held abandoned on May 13, 2005, for failure to file a timely reply to the Notice to File Corrected Application Papers, mailed April 12, 2005. A 30 day period for reply was set. Accordingly, a Notice of Abandonment was mailed on September 20, 2005.

A petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed November 3, 2005 was dismissed in a decision mailed November 17, 2005. Petitioner asserted, and maintains that a response was mailed April 15, 2005 and that a signed oath or declaration was submitted with the original application papers. In support, petitioner submitted, *inter alia*, a copy of a post card receipt, date stamped April 28, 2005 by the USPTO, and cover page used for submitting the response (oath or declaration). A search of the application file and the USPTO records revealed that a Notice to File Missing Parts was mailed October 17, 2002 requesting a signed oath or declaration and that a response was filed November 27, 2002 that purported to file the missing oath or declaration. However, the application then as now is devoid of any such signed oath or declaration and as such, the filing of a copy of the oath or declaration would be required for the petition to withdraw the holding of abandonment to be grantable.

Since it appears, with proof of mailing and receipt by the USPTO, that petitioner had tried to submit a signed oath or declaration on a number of occasions and in view of the signed oath or declaration submitted with the instant request, the petition to withdraw the holding of abandonment is GRANTED and the Notice of Abandonment is VACATED.

Since this application has been allowed, this matter will be referred to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 2/20/05 **Paper No.:** _____

TO : **Supervisor, Art Unit** 1621

SUBJECT : Certificate of Correction Request in Patent No.: 4,861,567

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

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

PLEASE COMPLETE THIS FORM AND
RETURN WITH FILE, WITHIN 7 DAYS,
TO CERTIFICATES OF CORRECTION BRANCH - PK 3-915/922
PALM LOCATION 7580 - TEL. NO. 305-8309

G.R. Green

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:** _____

_____

_____

_____

_____

Yvonne Eyler — **Supervisor**

1621 — **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. 11

TAKEDA PHARMACEUTICALS NORTH
AMERICA, INC.
INTELLECTUAL PROPERTY DEPARTMENT
475 HALF DAY ROAD
SUITE 500
LINCOLNSHIRE IL 60069

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JUN 13 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Akira Fujishima et al
Application No. 10/243,329
Filed: September 13, 2002
Attorney Docket No. 2635 US1P

This is a decision on the petition, filed June 11, 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 30, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1625 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GENERAL ELECTRIC COMPANY
3135 EASTON TURNPIKE
FAIRFIELD CT 06431

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AUG 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Jean LIENARD et al. :
Application No. 10/243,333 : ON PETITION
Filed: September 13, 2002 :
Attorney Docket No. 14XZ97 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 25, 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 February 13, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 14, 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 of $1500; and the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of February 13, 2003 is accepted as having been unintentionally delayed.

On April 25, 2005 a Need For Corrected Filing Receipt was filed, requesting deletion of David Allen Langan as inventor in the instant application and to correct the spelling of Thierry Lebihen. The corrected filing receipt has been processed and a copy has been attached to this decision.

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 2882 for appropriate action on the concurrently filed amendment.

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

Encl.: Corrected Filing Receipt

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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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MAY 0 5 2004

OFFICE OF PETITIONS

In re Application of
Gower et al.
Application No. 10/243,340
Filed: 13 September, 2002
Attorney's Docket No. UF-319

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed on 8 March, 2004, to change the second named inventor's name.

The petition is **GRANTED**.

The last name of the fourth inventor will be changed from "Kurz" to -**Gallup**--.

Petitioners have presented a certified copy of the court order for the name change, which occurred upon the marriage of the fourth named inventor.

Receipt of the declaration reflecting the inventor's current name and citizenship is acknowledged. The inventor's name has been corrected in Office records. A corrected Filing Receipt is enclosed for petitioners' records.

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

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

Douglas I. Wood
Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

H.A

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

042005

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

APR 15 2005

In re Application of:
David Suitwai Ma et al.
Serial No.: 10/243,363
Filed: September 12, 2002
For: SEMICONDUCTOR DIE ISOLATION SYSTEM

DECISION ON PETION

This is a decision on the petition, filed March 3, 2005, requesting that the accompanying response under 37 C.F.R. § 1.116 be accorded a filing date of December 6, 2004, pursuant to the certificate of mailing procedure of 37 C.F.R. § 1.8.

The petition is dismissed as moot.

A final Office action was mailed October 5, 2004. The instant petition was filed on March 3, 2005 along with an amendment after final rejection under 37 C.F.R. § 1.116. On March 7, 2005, a Request for Continued Examination (RCE) was filed along with an amendment to the claims. A non-final Office action was mailed on March 22, 2005.

Petitioner requests that the amendment after final rejection filed March 5, 2005 be accorded a filing date of December 6, 2004, because it was submitted on that date via the certificate of mailing procedure of 37 C.F.R. § 1.8(a) and the petition is accompanied by a showing of timely filing under 37 C.F.R. § 1.8(b).

Since, after the filing of the petition, the RCE has been filed and processed and an Office action has been issued based on the claims as submitted with RCE, the issue of the date of filing of amendment after final rejection has been mooted. As such, the petition is dismissed.

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

Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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JJGJR.: 09-06

Paper No: __

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SEP 19 2006

OFFICE OF PETITIONS

BERKELEY LAW
& TECHNOLOGY GROUP
1700NW 167TH PLACE
SUITE 240
BEAVERTON OR 97006

In re Application of :
Immonen, et al. :
Application No. 10/243,366 : DECISION
Filing Date: 12 September, 2002 :
Attorney Docket No.: 012.P28008 :

This is a decision on the petition filed on 25 August, 2006, alleging unintentional delay and seeking revival under 37 C.F.R. §1.137(b).

NOTES:

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.

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 22 February, 2006, with reply due absent extension of time on or before 22 May, 2006;

- on 26 April, 2006, Petitioner filed a reply in the form of an after-final amendment (along with a petition under 37 C.F.R.§1.78, which is to be addressed separately), which amendment, Petitioner, as one registered to practice before the Office, is aware is not of not of right[1] and appears not to have been entered by the Examiner, and the application went abandoned by operation of law after midnight, 22 May, 2006;

- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed;

- with the instant petition and fee, Petitioner filed a request for continued examination (RCE) and fee and pointed to the after-final amendment as the submission consistent with the requirements of 37 C.F.R.§1.114, and made the statement of unintentional delay.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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[1] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c).)

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing

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certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:

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

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

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

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

that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and of a holding of abandonment.[8]

As to the Allegations
of Unintentional Delay

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

Petitioner appears to have satisfied the regulatory requirements.

CONCLUSION

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

The instant application is released to Technology Center 2600 for further processing in due course.

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

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

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

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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SEP 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Immonen, et al.	:	
Application No. 10/243,366	:	DECISION ON PETITION
Filed: 12 September, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 088245-3110	:	

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed 26 April 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for benefit of priority to the prior-filed applications set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT.**

Where a claim for priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).[1] In the present case, the Office noted the claim for priority to the prior-filed applications in the declaration filed with the application, as shown by their inclusion on the filing receipt.

In view of the above, the petition fee is unnecessary and will not be debited from petitioner's deposit account.

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

Application No. 10/243,366

This matter is being referred to Technology Center AU 2617 for further processing in due course.

Any inquiries concerning this decision may be directed to John Gillon at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/243,366	09/12/2002	2617	870	088245-3110	18	2

CONFIRMATION NO. 4922

CORRECTED FILING RECEIPT

22428
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

Date Mailed: 09/23/2008

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

Applicant(s)

Marko Immonen, Oulu, FINLAND;
Ari Juntunen, Oulu, FINLAND;
Kimmo Keinanen, Oulu, FINLAND;
Tero Huostila, London, UNITED KINGDOM;

Assignment For Published Patent Application

Sonera Oyj

Power of Attorney: The patent practitioners associated with Customer Number 22428

Domestic Priority data as claimed by applicant

This application is a CON of PCT/FI01/00243 03/13/2001

Foreign Applications

FINLAND 20000589 03/14/2000
FINLAND 20001249 05/24/2000

If Required, Foreign Filing License Granted: 10/15/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/243,366**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Billing in mobile communications system employing wireless application protocol

Preliminary Class

455

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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OFFICE OF PETITIONS

In re Application of :
Andrew V. Oleinikov :
Application No. 10/243,367 : ON PETITION
Filed: September 12, 2002 :
Attorney Docket No. 0601 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 26, 2004 and resubmitted on June 15, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (Notice) mailed January 29, 2003. 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 March 30, 2003.

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

This matter is being referred to the Office of Initial Patent Examination.

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

cc: JEFFREY B. OSTER
COMBIMATRIX CORPORATION
6500 HARBOUR HEIGHTS PARKWAY
MUKILTEO, WA 98275

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OFFICE OF PETITIONS

In re Application of :
Oleinikov, Andrew V. :
Application No. 10/243,367 : ON PETITION
Filed: 10/243,367 :
Attorney Docket No. SYNB-P01-005 :

This is a decision on the petition under 37 CFR 1.102(d), filed on February 2, 2006, to make the above-identified application special based on applicants who are small entities filing biotechnology applications as set forth in M.P.E.P. § 708.02, Section XII.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section XII: Special Status for Applications Relating to Biotechnology Filed by Applicants Who are Small Entities, must be accompanied by (1) the petition fee under 37 CFR 1.17(h); and (2) state:

> (A) That small entity status has been established or include a statement establishing small entity status;
>
> (B) That the subject of the patent application is a major asset of the small entity; and
>
> (C) That the development of the technology will be significantly impaired if examination of the patent application is delayed, including an explanation of the basis for making the statement.

The instant petition includes all of the above listed requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206.

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 the Technology Center Art Unit 1635 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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PATENT COUNSEL
APPLIED MATERIALS, INC.
LEGAL AFFAIRS DEPARTMENT
P O BOX 450A, M/S 2061
SANTA CLARA, CA 95052

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OFFICE OF PETITIONS

In re Application of :
Wolfgang R. Aderhold et al :
Application No. 10/243,383 : DECISION GRANTING PETITION
Filed: September 12, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. A6369/T61800 :

This is a decision on the petition, filed April 11, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 15, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3742 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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

---

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

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OFFICE OF PETITIONS

In re Application of	:	
Aderhold et al.	:	DECISION ON PETITION
Application Number: 10/243383	:	
Filing Date: 09/12/2002	:	
Attorney Docket Number:	:	
A6369/T61800	:	

This is a decision in reference to the "PETITION UNDER 37 C.F.R. § 1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT" filed on 12 July, 2007.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the Office letter mailed on 4 May, 2005. Notice of Abandonment was mailed on 17 May, 2007.

Petitioner asserts that a timely response to the Office letter mailed on 4 May, 2005, was filed.

A review of the record reveals the following:

On 12 September, 2002, the application was filed.

On 22 March, 2005, a Notice of Allowance and Fee(s) Due was mailed, setting a three (3) month statutory period for reply.

On 11 April, 2005, a petition to withdraw the application from issue was filed, along with a Request for Suspension of Action under 37 CFR 1.103(c), a Request for Continued Examination (RCE) and the required fee, and a preliminary amendment as the submission required under 37 CFR 1.114.

On 12 April, 2005, a decision granting the petition to withdraw from issue was mailed.

On 4 May, 2005, an Office communication stating that action by the Office is suspended under 37 CFR 1.103(a) for a period of

three (3) months was mailed. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension.

On 13 July, 2005, a second petition requesting a further suspension of action was filed, requesting an additional three (3) months of suspension.

On 27 January, 2006, an Office communication stating that action by the Office is suspended under 37 CFR 1.103(a) for three (3) months was mailed. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension.

On 11 April, 2006, a request for continuance of prosecution was filed.

MPEP 709 states, in pertinent part:

> A. Petition Under 37 CFR 1.103(a) With a Showing of Good and Sufficient Cause
>
> A request that action in an application be delayed will be granted only under the provisions of 37 CFR 1.103, which provides for "Suspension of Action." A petition for suspension of action under 37 CFR 1.103(a) must:
> (A) be presented as a separate paper;
> (B) be accompanied by the petition fee set forth in 37 CFR 1.17(g);
> (C) request a specific and reasonable period of suspension not greater than 6 months; and
> (D) present good and sufficient reasons why the suspension is necessary.
> If the requirements of 37 CFR 1.103(a) are not met, applicants should expect that their applications, whether new or amended, will be taken up for action by the examiner in the order provided in MPEP § 708, Order of Examination. A petition for suspension of action to allow applicant time to submit an information disclosure statement will be denied as failing to present good and sufficient reasons, since 37 CFR 1.97 provides adequate recourse for the timely submission of prior art for consideration by the examiner.
>
> B. Request for Suspension Under 37 CFR 1.103(b) or (c)

> Applicants may request a suspension of action by the Office under 37 CFR 1.103(b) or (c) for a period not exceeding three months in a continued prosecution application (CPA) filed under 37 CFR 1.53(d) if the application is a design application, or in a continued examination (RCE) filed under 37 CFR 1.114. The request for suspension must be filed at the time of filing of the CPA or RCE. A supplemental reply will be entered if it is filed within the period during which action is suspended by the Office under 37 CFR 1.103(c). See MPEP § 714.03(a) regarding supplemental reply.
>
> 1. Requirements
>
> The Office will not grant the requested suspension of action unless the following requirements are met:
> (A) the request must be filed with the filing of a design CPA or an RCE (applicants may use the check box provided on the transmittal form PTO/SB/29 or PTO/SB/30, or submit the request on a separate paper);
> (1) if the request is filed with an RCE, the RCE must be in compliance with 37 CFR 1.114, i.e., the RCE must be accompanied by a submission and the fee set forth in 37 CFR 1.17(e). Note that the payment of the RCE filing fee may not be deferred and the request for suspension cannot substitute for the submission;
> (2) if the request is filed with a CPA, a filing date must be assigned to the CPA;
> (B) the request should specify the period of suspension in a whole number of months (maximum of 3 months). If the request specifies no period of suspension or a period of suspension that exceeds 3 months, the Office will assume that a 3-month suspension is requested; and
> (C) the request must include the processing fee set forth in 37 CFR 1.17(i).

As such, the showing of record is that applicant timely and properly filed a request under 37 CFR 1.103 on 11 April, 2005, which was granted on 4 May, 2005, and properly filed a response to continue the suspension for an additional 3 months on 13 July, 2005, which was granted on 27 January, 2006. Lastly, a timely request for continuance of prosecution was filed within three months on 11 April, 2006.

As such, there is no abandonment in fact. The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The Office apologizes for any inconvenience to petitioner.

The application is referred to Technology Center Art Unit 3742 for further processing and examination.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Wolfgang R. Aderhold et al	:	
Application No. 10/243,383	:	DECISION GRANTING PETITION
Filed: September 12, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. A6369/T61800	:	

This is a decision on the petition filed January 11, 2008, which is being treated under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 21, 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 3742 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed ID.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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TEXAS INSTRUMENTS INCORPORATED
PO BOX 655474, M/S 3999
DALLAS TX 75265

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OFFICE OF PETITIONS

In re Application of	:	
Khan et al.	:	DECISION ON PETITION
Application No. 10/243,405	:	UNDER 37 CFR 1.137(b)
Filed: September 12, 2002	:	
Attorney Docket No. TI-33983	:	
032350.B449)	:	

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

The petition is **GRANTED**.

This application became abandoned on May 19, 2005, for failure to pay the issue fee and the publication fee as required by the Notice of Allowance and Fee(s) Due mailed February 18, 2005, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on August 5, 2005.

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

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

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell
Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF THE DIRECTOR
TC 3600

Louis J. Hoffman
LOUIS J. HOFFMAN, P.C.
14614 North Kierland Boulevard
Suite 300
Scottsdale, AZ 85254

Paper Dated 11/22/04

In re Application of:	:
Steven G. Lisa	: DECISION ON PETITION
Serial No. 10/243,417	: REQUESTING WITHDRAWAL
Filed: September 12, 2002	: OF RESTRICTION
For: Passive Aerial Protection System	:

Applicant's petition, filed on August 11, 2004, requests withdrawal of the restriction requirement made in the Office Action dated July 6, 2004 as being improper, clarification of the grounds for the restriction requirement, clarification of the status of claims 17-20, and acknowledgement of the Supplemental Information Disclosure Statement filed by facsimile on June 3, 2004 and July 1, 2004.

The petition is **GRANTED** to the extend set forth below.

Applicant alleges that the restriction requirement made in the Office Action dated July 6, 2004 as being improper because the examiner applied a non-statutory standard for the restriction as "invention that is independent or distinct from the invention originally claimed." Applicant asserts that the correct standard for restriction requirement set forth in 35 USC 121 and 37 CFR 1.142 (a) is "two ... independent and distinct inventions are claimed in one application ... "

Upon inspection of the record, it is noted that the amendment filed on March 30, 2004 amended claims 1-7 and added new claims 8-20. Newly added claims 8-16 depend on claims 1-7 and are drawn to a defense system to protect a facility against aerial incursion as already set forth in claims 1-7. On the other hand, claims 17-20 are drawn to a method of defending a facility against aerial incursion. Claims 17-20 are independent and distinct from claims 1-16 in that the process as recited in claims 17-20 can be used to erect a wire fence to mark the boundary of a plot of land and to keep out intrusions.

MPEP section 821.03 states that "Claims added by amendment following action by the examiner, MPEP § 818.01, §818.02(a), to an invention other than previously claimed, should be treated as indicated by 37 CFR 1.145."

> 37 CFR 1.145 states that:
> "If, after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to consideration and review as provided in §1.143 and 1.144."

MPEP § 803 sets forth the criteria for restriction between patentably distinct inventions. One of the criteria is that the invention must be independent or distinct as claimed. Therefore, the standard "independent or distinct" is a proper test for restriction.

A review of the Office action dated July 6, 2004 reveals that the examiner considered claims 17-20 as independent or distinct from the invention of claims 1-16, and withdrew claims 17-20 from consideration based on the constructive election by original presentation. The restriction requirement is deemed proper per MPEP § 803, 821.03 and CFR 1.145.

With regard to applicant's comments on the lack of the rationale for the restriction requirement in the Office action dated July 6, 2004, and the Advisory action dated August 6, 2004, a review of the Office action dated July 6, 2004 and the Advisory action dated August 6, 2004 indicates that the applicant is correct. The examiner has failed to indicate the relationship between the groupings and to provide reasons justifying the restriction requirement in the Office action dated July 6, 2004. When applicant comments on the lack of rationale of the restriction in the amendment after final filed on July 22, 2004, the examiner again failed to address the issues in the Advisory action dated August 6, 2004. To complete the record, the examiner will be directed to issue a supplemental action to provide a complete rationale for the restriction requirement.

With regard to applicant's comments on the status of pending claims 17-20, a review of the record reveals that the examiner has incorrectly indicated in the cover sheet of the Office action dated July 6, 2004, and the Advisory action dated August 6, 2004 that claims 17-20 are both withdrawn and rejected. However, a review of the body of the Office action shows that claims 17-20 are withdrawn but they were never been treated on the merit. Therefore, the correct status of claims 17-20 is being withdrawn from consideration. As a result, the examiner will be directed to issue a supplemental action to clarify the status of claims 17-20.

With regard to applicant's comments on the examiner's failure to acknowledge the IDS filed by facsimile on June 3, 2004 and July 1, 2004, an inspection of the record shows that the IDS filed on June 3, 2004 was incomplete because the form 1449 was not filed. The IDS was refilled on July 1, 2004 with the form 1449. Subsequently, the examiner issued the final rejection on July 6,

2004 but failed to acknowledge the filing of the IDS. In the amendment after final filed on July 22, 2004, applicant requested the acknowledgement of the IDS filed on July 1, 2004 but the examiner failed to address this issue in the Advisory action dated August 6, 2004.

Based on the facts discussed above, applicant's petition to withdraw the restriction requirement is denied because the restriction requirement is proper based on CFR 1.154 and MPEP § 803, 821.03. However, applicant's request to have the Office clarify the status of pending claims 17-20, to provide the specific grounds for the restriction requirement, and to acknowledge the receipt of the IDS filed on July 1, 2004 will be granted.

The application will be forwarded to the examiner to issue a supplemental action to clarify the status of pending claims 17-20, to provide the specific grounds for the restriction requirement, and to acknowledge the receipt of the IDS filed on July 1, 2004.

SUMMARY: The petition to withdraw the restriction requirement is DENIED. The petition to request a supplemental office action to clarify the status of pending claims 17-20, to provide the specific grounds for the restriction requirement, and to acknowledge the receipt of the IDS filed on July 1, 2004 is GRANTED.

John J. Love, Director
Technology Center 3600
(703) 308-1020
Facsimile (703) 872-9306

lm:11/22/04

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SEP 10 2008

OFFICE OF PETITIONS

In re Application of
Lisa, et al.
Application No. 10/243,417
Filed: September 12, 2002
Attorney Docket No. 11-Lisa
For: PASSIVE AERIAL PROTECTION SYSTEM

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed April 14, 2008, requesting that the Office withdraw the holding of abandonment of the above-identified application.

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

This application was held abandoned for failure to respond in a timely manner to the Office action, mailed July 30, 2007, which set forth a non-extendable one (1) month period for reply from the mail date of the Office action to present dependent claims in independent form. The Office contended that this application became abandoned on August 31, 2007 for failure to reply to the July 30, 2007 Office action. A Notice of Abandonment was mailed on February 25, 2008.

Petitioners request withdrawal of the holding of abandonment based on the assertion that an appropriate amendment was timely received in the Office on August 29, 2007. The undersigned finds this argument completely convincing, as the amendment is present in the application file. Therefore, the amendment was timely filed.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the February 25, 2008 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

Accordingly, the application file will be forwarded to Technology Center A.U. 3633 for consideration of the amendment filed on August 29, 2007.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

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

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TUCSON, AZ 85718

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APR 30 2008

OFFICE OF PETITIONS

In re Application of :
NAKAMURA, et al. :
Application No. 10/243,418 : DECISION ON PETITION
Filed: September 13, 2002 :
Attorney Docket No. OMEGA 323356 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 10, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 20, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Accordingly, the date of abandonment of this application is December 21, 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 of $395, and the submission required by 37 CFR 1.114; (2) the petition fee of $750; and (3) An adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 1753 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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

GOODWIN PROCTER LLP
135 COMMONWEALTH DRIVE
MENLO PARK CA 94025

In re Application :
Goddard, et al. :
Application No. 10/243,425 : PATENT TERM ADJUSTMENT
Filed: September 12, 2002 :
Dkt. No.: GNE-3630-C36 :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1. 705(b)," filed April 24, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is 750 days, not 435 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 patent term adjustment application fee of $200.00 is required prior to treatment on the merits of any request for reconsideration of patent term adjustment. See, 37 CFR 1.18(e). Accordingly, the required $200.00 patent term adjustment application fee has been charged to applicants' deposit account as authorized.

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 the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

[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.

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GINGER R. DREGER, ESQ.
GOODWIN PROCTER LLP
135 COMMONWEALTH DR.
MENLO PARK CA 94025

In re Patent No. 7,582,293
Issued: September 1, 2009
Application No. 10/243,425
Filed: September 12, 2002
Dkt. No.: GNE-3630-C36

: 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 October 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 728 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 September 13, 2005 and ends on July 23, 2006, the day before the RCE was filed, and not July 24, 2006, the day of filing of the RCE. See, 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 314 days, not 315 days.

Further, the period of "A" delays totals 625 days. The period of applicant delay of 212 days is properly increased an additional 57 days in connection with the supplemental reply filed September 19, 2006. The reduction commenced July 25, 2006, the day after the date that the initial reply was filed, and ended September 19, 2006, the date that the supplemental reply was filed. See, 37 CFR 1.704(c)(8).

As such, the correct patent term adjustment is 670 days, not 728 days ("A" delays of 625 days + "B" delay of 314 days – 269 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, 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 previous $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of 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 670 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 : 7,582, 293 B2

DATED : **September 1, 2009** **DRAFT**

INVENTOR(S) : Goddard, 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 413 days

Delete the phrase "by 413 days" and insert – by 670 days--

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GINGER R. DREGER, ESQ.
GOODWIN PROCTER LLP
135 COMMONWEALTH DR.
MENLO PARK, CA 94025

Mail Date: 04/21/2010

Applicant	: Audrey Goddard	: DECISION ON REQUEST FOR
Patent Number	: 7582293	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/243,425	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **894** 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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GINGER R. DREGER, ESQ.
GOODWIN PROCTER LLP
135 COMMONWEALTH DR.
MENLO PARK, CA 94025

Mail Date: 05/18/2010

Applicant : Audrey Goddard
Patent Number : 7582293
Issue Date : 09/01/2009
Application No: 10/243,425
Filed : 09/12/2002

: 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 **984** 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
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Paper No.

Fish and Richardson
225 Franklin Street
Boston, MA 02110-5070

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DEC 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Andrew P. Kloek, et al. :
Application No. 10/243,468 : DECISION DISMISSING PETITION
Filed: September 13, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 12557-007001 :

This is a decision on the petition, filed November 12, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is dismissed as **MOOT**.

Petitioner states that the instant nonprovisional application became the subject of a counterpart application filed in an eighteen-month country on February 24, 2003. A review of the file record discloses that a Notice to Rescind was received in the USPTO on February 24, 2003.

Where an applicant makes a nonpublication request under 35 U.S.C. 122(b)(2)(B)(i) and then rescinds (pursuant to 35 U.S.C. § 122(b)(2)(B)(ii)) the nonpublication request **before or on the date a counterpart application is filed in an eighteen-month publication country**, the nonpublication request will be treated as annulled and the application will be treated as if the nonpublication request had never been made. *See* Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2))(B)(ii)-(iv), 1272 OG 1 (July 1, 2003), available at http://www.uspto.gov/web/patents/ patog/week26/.

In the instant application, a notice to rescind was filed prior to the filing date of a counterpart application in an eighteen-month publication country. Therefore, since receipt in the USPTO of the request to rescind prior to the filing date of a counterpart application in an eighteen-month publication country resulted in the annulling of the nonpublication request, this application is not

regarded as abandoned. As such, the filing of a petition to revive is unnecessary and is dismissed as involving a moot issue.

Since this application is not in fact abandoned, for the reason stated above, the petition fee of $ is being credited to Deposit Account No. 06-1050 as authorized.

This application is being forwarded to Technology Center 1600 for examination in due course.

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

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

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR **PATENT** FEE REFUND

1 Date of Request: 12/19/03

2 Serial/Patent # 10/243,468

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
✓	Petition		11/12/03	$ 665
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 665

8 TO BE REFUNDED BY:

	Treasury Check
✓	Credit Deposit A/C #:

9 0 6 -- 1 0 5 0

10 REASON:

	Overpayment
	Duplicate Payment
	No Fee Due (Explanation):

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: MARIANNE MORGAN TITLE: PARALEGAL

SIGNATURE: Marianne Morgan PHONE: 306-3475

OFFICE: PETITIONS

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] DATE: 12/22/03

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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Paper No. 5

CHIEF PATENT COUNSEL
SMITH & NEPHEW INC.
1450 BROOKS ROAD
MEMPHIS, TN 38116

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JUL 15 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Terry McLean et al
Application No. 10/243,502
Filed: September 13, 2002
Attorney Docket No. 10557/276125

This is a decision on the petition under 37 CFR 1.137(b), filed June 9, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed October 23, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 24, 2002.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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

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

cc: KILPATRICK STOCKTON
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309-4530

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/243,508	09/14/2002	Collins White	438P1017	7081

28264 7590 10/29/2007

BOND, SCHOENECK & KING, PLLC
ONE LINCOLN CENTER
SYRACUSE, NY 13202-1355

EXAMINER	
JOHNSON, STEPHEN	
ART UNIT	PAPER NUMBER
3641	
MAIL DATE	DELIVERY MODE
10/29/2007	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.:20071021

DATE : October 29, 2007

TO SPE OF : ART UNIT 3641

SUBJECT : Request for Certificate of Correction on Patent No.: 6,907,811

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: /Michael J. Carone/ **Art Unit** 3641

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QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

Mail Date: 05/04/2010

Applicant	: Jaisri R. Lingappa	: DECISION ON REQUEST FOR
Patent Number	: 7638269	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/243,509	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **563** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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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J. ERIC CHURILLA
6002 RAIN CREEK PARKWAY
AUSTIN TX 78759

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DEC 10 2009

OFFICE OF PETITIONS

In re Application of :
Douglas Pedley et al. :
Application No. 10/243,523 : ON PETITION
Filed: September 13, 2002 :
Attorney Docket No. 1184.001 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 2, 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). 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 July 3, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on October 8, 2009, was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to the JoAnne Burke at (571)272-4584.

This application is being referred to Technology Center AU 2625 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.

JoAnne Burke
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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NICOLA A. PISANO, ESQ.
LUCE, FORWARD, HAMILTON & SCRIPPS LLP
11988 EL CAMINO REAL
SUITE 200
SAN DIEGO, CA 92130

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FEB 07 2005

OFFICE OF PETITIONS

In re Application of :
Michael Hogendijk :
Application No. 10/243,525 : ON PETITION
Filed: September 12, 2002 :
Attorney Docket No. AMS-017 :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed December 28, 2004.

A review of the record discloses that the application became abandoned for failure to pay the issue fee on or before December 22, 2004. On December 28, 2004, the present petition was filed, all with the requisite issue fee, a copy of a patent assignment, change of address and a revocation and power of attorney.

The Revocation and Power Attorney filed December 28, 2004 is **not** acceptable, since it appears that the Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received. However, in accordance with 37 CFR 1.34(a), the signature of Kevin J. Boland appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Boland desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record. At present, the request to change the correspondence address filed December 28, 2004 will not be processed.

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

The application is being referred to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571-272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (703) 305-8283.

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

cc: Kevin J. Boland
W. L.Gore & Associates, Inc.
551 Paper Mill Road
Newark, DE 19714-9206

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. 4

JUL 23 2003

In re Application of	:	
William C. Bauman	:	
Serial No:10/243,532	:	PETITION UNDER
Filed: September 13, 2002	:	M.P.E.P. 708.02, IV
For: LITHIUM CARBIDE COMPOSITION, CATHODE, BATTERY AND PROCESS	:	

This is in response to the petition filed September 13, 2002, requesting that the above-identified application be granted Special Status under Section 708.02, IV of the MPEP and 37 CFR 1.102(c).

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

Timothy S. Stevens
5108 Foxpoint
Midland, MI 48642

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KLAUS J. BACH & ASSOCIATES
PATENTS AND TRADEMARKS
4407 TWIN OAKS LANE
MURRYSVILLE PA 15668

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MAY 05 2010

OFFICE OF PETITIONS

In re Patent No. 6,727,499	:	
Issue Date: April 27, 2004	:	
Application No. 10/243,536	:	ON PETITION
Filed: September 14, 2002	:	
Attorney Docket No. K 198	:	

This is a decision on the petition under 37 CFR 1.378(c), filed July 7, 2008, which was resubmitted February 3, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on April 28, 2008 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

The patent file is being forwarded to Files Repository.

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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STOEL RIVES L.L.P- S.L.C.
201 SOUTH MAIN STREET
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

MAILED

OCT 19 2009

OFFICE OF PETITIONS

In re Application of :
Duane D. Blatter :
Application No. 10/243,543 : DECISION ON PETITION
Filed: September 12, 2002 :
Attorney Docket No. 11502/30:1 US :

This is a decision on the petition under 37 CFR 1.137(b), filed October 31, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned as a result of petitioner's failure to take appropriate action in timely manner after the decision of February 13, 2007 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(c). As no claim was allowed, the application became abandoned on April 14, 2007. See MPEP 1214.06. A Notice of Abandonment was mailed September 20, 2007.

Petitioner has not submitted a proper response to the decision by the Board of Patent Appeals and Interferences. The petition has not satisfied the requirements of 37 CFR 1.137(b) in that petitioner has failed to submit a proper reply. A proper reply would be in the form of a Request for Continued Examination (RCE) and fee, and the submission required by 37 CFR 1.114 (previously filed June 20, 2007, October 31, 2007 and May 9, 2008). Petitioner is required to file an RCE and fee in order to continue prosecution of the application.

Further, 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 the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

MAIL

NOV 2 0 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

John W. Carpenter
Crosby, Heafey, Roach & May
P.O. Box 7936
San Francisco CA 94120-79

In re Application of
DAVID M. TELLER
Application No. 10/243,545
Filed: September 16, 2002
For: SERVICE TRANSACTION MONITORING SYSTEM, METHOD, AND DEVICE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record and request to change correspondence address, simultaneously filed on September 26, 2003.

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

The subject application was filed containing only copies of pages 6 and 7 of the Declaration filed in the parent application. Pages 6 and 7 (out of 7 total pages) include the signature of the inventor, but does not include indication of power of attorney. Therefore, there is no attorney of record in the subject application.

Accordingly, the request is **Dismissed as Moot**.

Given that the petitioner is not an attorney of record, petitioner can not effect a change of address. Therefore, future communications from the Office will be directed to the above-listed address unless a change of correspondence is specifically requested. Given that the requested change of address was effected in the parent application, a courtesy copy will be provided to the address listed below.

The file is being returned to the Technology Center's Central files to await action in turn by the examiner.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

cc: JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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George H. Gerstman
Seyfarth Shaw
Suite 4200
55 East Monroe Street
Chicago, IL 60610

Mail Date: 07/02/2010

Applicant	: Hardy Lee Crumby	: DECISION ON REQUEST FOR
Patent Number	: 6585592	: RECALCULATION of PATENT
Issue Date	: 07/01/2003	: TERM ADJUSTMENT IN VIEW
Application No	: 10/243,582	: OF WYETH
Filed	: 09/13/2002	:
		:

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, DC 20231
www.uspto.gov

Paper No. 3

DAVID E. LOVEJOY
FLIESLER, DUBB, MEYER, & LOVEJOY
SUITE 400
FOUR EMBARCADERO CENTER
SAN FRANCISCO, CA 94111-4156

In re Application of :
SANFORD, JOHN RICHARD :
Application No. 10/268,564 : DECISION ON REQUEST TO
Filed: October 10, 2002 : WITHDRAW AS ATTORNEY
For: **COMMUNICATION DEVICE WITH INTEGRATION IN SEPARATE TRANSMITTER AND RECEIVER ANTENNAS** :

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on July 17, 2003.

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

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

All of the attorneys/agents of record are granted the request for withdraw.

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

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

cc: JERRY H. MACHADO
1142 MOORE ROAD
WOODSIDE, CA 94062-1112

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

Paper No. 4

Lorri W. Cooper, Esq.
JONES, DAY, REAVIS & POGUE
North Point
901 Lakeside Avenue
Cleveland OH 44114

SEP 1 1 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
BRIAN W. BROLLIER :
Application No. 10/243,602 : DECISION ON REQUEST TO
Filed: September 13, 2002 : WITHDRAW AS ATTORNEY
For: LIGHT ENABLED RFID IN INFORMATION DISKS :

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on July 22, 2003.

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

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

All of the attorneys/agents listed are granted the request for withdraw.

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 D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

cc: Kenneth R. Schaefer, Esq.
International Paper Company
1422 Long Meadow Road
Tuxedo, NY 10987

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCDERMOTT, WILL & EMERY
4370 LA JOLLA VILLAGE DRIVE, SUITE 700
SAN DIEGO CA 92122

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MAY 11 2005

OFFICE OF PETITIONS

Applicant: Smith et al.
Appl. No.: 10/243,613
Filing Date: September 13, 2002
Title: SELECTIVE SUBSTRATES FOR MATRIX METALLOPROTEINASES
Attorney Docket No.: 66654-746 (P-LJ 5432)
Pub. No.: US 2004/0053823 A1
Pub. Date: March 18, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 19, 2004 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 material errors made by the Office.

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 instant request includes mistakes that are not the fault of the Office, which will not be corrected as requested in a corrected publication.

The error labeled No. 3 will be corrected.

[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 following material errors alleged by applicant will not be corrected, as they are not apparent from the Office record:

The error at page 8, wherein applicant request that "A54" be replaced with "B54" and at page 9, wherein applicant request that "S" be replaced with "X" will not be corrected, as the errors are not clear from the record. The text in the tables is blurred, as the lines in the table overlap the letters, which makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition.

Applicants have been advised to file applications having cleaner text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52.

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

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

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

By facsimile: 703-872-9306

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

NUMERICAL
C/O BEVER HOFFMAN & HARMS, LLP
2099 GATEWAY PLACE
SUITE 320
SAN JOSE CA 95110-1017

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MAR 1 8 2003

OFFICE OF PETITIONS

In re Application of	:	
Qian and Pang	:	
Application No. 10/243,629	:	DECISION ACCORDING STATUS
Filed: 13 September, 2002	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. NTI-789	:	

This is in response to the petition filed under 37 CFR under 37 CFR 1.47(a) on 9 December, 2002.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Qi-De Qian, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have shown that a copy of the application was sent to the non-signing inventor. Despite diligent efforts on the part of petitioners, non-signing inventor Qian had failed, however, to return an executed declaration naming him as a joint inventor along with Linyong Pang.

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 Technology Center 2600 for examination in due course.

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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DRW 03-03

Qi-De Qian
159 Gilbert Avenue
Santa Clara, CA 95051

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MAR 18 2003

OFFICE OF PETITIONS

In re Application of
Qian et al.
Application No. 10/243,629
Filed: 13 September, 2002
For: SOFT DEFECT PRINTABILITY SIMULATION AND ANALYSIS FOR MASKS

Dear Mr. Qian:

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

NUMERICAL
C/O BEVER HOFFMAN & HARMS, LLP
2099 GATEWAY PLACE
SUITE 320
SAN JOSE CA 95110-1017

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Sony Corporation of America
16530 VIA ESPRILLO, MZ 7190
SAN DIEGO, CA 92127

Mail Date: 04/21/2010

Applicant	: Christopher Alan Gulliver	: DECISION ON REQUEST FOR
Patent Number	: 7603406	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/243,634	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2016** 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
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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	:	
Ehrlich et al.	:	
Application No. 10/243,635	:	ON PETITION
Filed: September 12, 2002	:	
Attorney Docket No. 15283A-001300US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 9, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed November 5, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 8, 2005.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 23 2004

Director's Office
Group 3700

THOMAS R. FITZGERALD, ESQ.
16 E. MAIN STREET, SUTIE 210
ROCHESTER, NY 14614-1803

Paper No. 8

In re Application of
CARTWRIGHT, THOMAS
Application No.: 10/243,639
Filed: September 11, 2002

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed May 28, 2003 to make special under 37 CFR 1.102(d).

Since the requirements of 37 CFR 1.102(d) and MPEP 708.02, II. have been met, the petition is granted.

The application is being forwarded to the examiner for an action on the merits.

Linda J. Sholl
Special Program Examiner
Technology Center 3700
Phone: (703) 308-1288

UNITED STATES PATENT AND TRADEMARK OFFICE

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James J. Kulbaski
OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 22314

MAILED

JUL 13 2005

Technology Center 2100

In re Application of:
Hiroshi KITADA, et al
Appl. No.: 10/243,643
Filed: September 16, 2002
For: BROWSER, METHOD AND COMPUTER PROGRAM PRODUCT FOR MANAGING DOCUMENTS

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed May 10, 2005 to expunge the Information Disclosure Statement submitted on March 25, 2005.

The petition is **GRANTED**.

Petitioner requests that any information contained in the Information Disclosure Statement (IDS) filed on March 25, 2005 be expunged from the record. Petitioner states that applicants are uncertain about the certification status of the references listed therein and that failure to obtain the IDS of March 25, 2005 would cause irreparable harm to applicants. The petition fee set forth in 37 CFR § 1.17(h) has been paid.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been closed from public view and will not be returned to applicant.

It is noted that the instant application has been published on December 18, 2003. Thus, the IDS filed March 25, 2005 has already been made available to the public and subject to copying by the public. According, the Office cannot guarantee that the information being closed as a result of this decision was not previously accessed by the public.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

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

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James J. Kulbaski
OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 22314

MAIL

JUL 1 3 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Hiroshi KITADA, et al
Appl. No.: 10/243,645
Filed: September 16, 2002
For: SYSTEM, COMPUTER PROGRAM PRODUCT AND METHOD FOR SCANNING AND MANAGING DOCUMENTS

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed May 10, 2005 to expunge the Information Disclosure Statement submitted on March 25, 2005.

The petition is **GRANTED**.

Petitioner requests that any information contained in the Information Disclosure Statement (IDS) filed on March 25, 2005 be expunged from the record. Petitioner states that applicants are uncertain about the certification status of the references listed therein and that failure to obtain the IDS of March 25, 2005 would cause irreparable harm to applicants. The petition fee set forth in 37 CFR § 1.17(h) has been paid.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been closed from public view and will not be returned to applicant.

It is noted that the instant application has been published on February 5, 2004. Thus, the IDS filed March 25, 2005 has already been made available to the public and subject to copying by the public. According, the Office cannot guarantee that the information being closed as a result of this decision was not previously accessed by the public.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

FREEDMAN & ASSOCIATES
117 CENTREPOINTE DRIVE
SUITE 350
NEPEAN, ONTARIO, K2G 5X3
CANADA

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MAR 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Dragan Golo :
Application No. 10/243,691 : NOTICE
Filed: September 16, 2002 :
Attorney Docket No. 168-01 US :

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

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

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

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 2634.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TOMOAKI KOSEKI
KOSEKI MEDICAL CO., LTD
17-2, SOTOKANDA 2-CHOME
CHIYODA-KU, TOKYO 101-0-021 JP JAPAN

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JUN 12 2007

OFFICE OF PETITIONS

In re Application of :
Tomoaki Koseki :
Application No. 10/243,696 : DECISION ON PETITION
Filed: September 14, 2002 :
Attorney Docket No. P-SH2Y :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 24, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit corrected formal drawings on or before November 15, 2006, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed August 15, 2006. Accordingly, the date of abandonment of this application is November 16, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the publication fee of $300, and corrected formal drawings, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KONRAD RAYNES & VICTOR, LLP
315 S. BEVERLY DRIVE
 # 210
BEVERLY HILLS, CA 90212

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OFFICE OF PETITIONS

In re Application of	:	
NATARAJAN, et al.	:	
Application No. 10/243,701	:	DECISION GRANTING PETITION
Filed: September 15, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 19.01 D1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 6, 2006, 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 02, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to Patricia Volpe at 571-272-6825.

This application is being referred to Technology Center AU 3762 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 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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20037-3213

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SEP 2 6 2005

OFFICE OF PETITIONS

In re Application of :
Minoru Usui, et al. :
Application No. 10/243,730 : ON PETITION
Filed: September 16, 2002 :
Attorney Docket No.: Q71825 :
:

This is a decision on the petition, filed September 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 July 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2861 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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FOLEY & LARDNER LLP
1530 PAGE MILL ROAD
PALO ALTO CA 94304

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OFFICE OF PETITIONS

In re Application of	:	
Grant et al.	:	DECISION ON PETITION
Application No. 10/243,731	:	UNDER 37 CFR 1.137(b)
Filed: September 16, 2002	:	
Attorney Docket No. 002010-782	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 20, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on June 24, 2005, for failure to pay the issue fee and the publication fee as required by the Notice of Allowance and Fee(s) Due mailed March 23, 2005, which set a three (3) month statutory period for reply. The present petition preceded the mailing of a Notice of Abandonment.

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

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

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
www.uspto.gov

JJG:jr: 08-0

Paper No. 4

NORMAN H. STEPNO
BURNS, DOANE,
SWECKER & MATHIS, L.L.P.
P.O. BOX 1404
ALEXANDRIA VA 22313-1404

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DEC 2 4 2002

OFFICE OF PETITIONS

In re Application of	:	
Pruche, et al.	:	
Application No. 10 243,733	:	DECISION ON PETITION
Filed: 16 September, 2002	:	
Attorney Docket No.: 016800-531	:	

This is a decision on the petition filed on 1 November, 2002, styled "Petition under 37 C.F.R. §1.182 in Response to Notice to File Corrected Application Papers" and considered under 37 C.F.R. §1.53 requesting that page 2 of the specification (description and claims) in the above-identified non provisional application be accorded a filing date of 16 September, 2002.

The petition under 37 C.F.R. §1.53 is **GRANTED**.

The application was originally deposited on 16 September, 2002.

The application as filed on 16 September, 2002, consisted, *inter alia*, of Specification Pages 1, 3 -19, Claims Pages 20-21.

The Office mailed on 10 October, 2002, a "Notice to File Corrected Application Papers (Filing Date Granted)" in which--in addition to requiring the filing of an "abstract of the technical disclosure not exceeding 150 words in length and commencing on a separate sheet in compliance with 37 C.F.R. §1.72"--Petitioner was informed that Page 2 of the specification (description and claims) as described in the specification appeared to have been omitted from the application. The Notice further indicated that the Applicant must respond within two months of the Notice mail date.

Petitioner filed on 1 November (supplemented on 27 November), 2002, a response with the instant petition, a copy of the Office-stamped filing receipt card, copies of document (specification Page 2) purporting to be the missing pages of the specification (description and claims) and the missing figures alleged to have been filed on 9 November, 2001, and a check in payment of the $130.00 petition fee.

The copy of the date stamped (16 September, 2002) receipt card (with the Office bar code/application number) filed with the instant petition indicates that, *inter alia*, "Specification pages (1 - 19), Claims *** 2 pages" were filed among the pages of specification (including description and claims) and along with the abstract.

Because the return postcard receipt properly itemizes the contents of the application package in accordance with MPEP §503, the Office concludes that Page 2 of the specification (description and claims) was subsequently misplaced in the Office.

Accordingly, the petition under 37 C.F.R. §1.53 is **granted**.[1]

On 23 December, 2002, Petitioner filed the required Abstract (along with a request and fee for a one- (1-) month extension of time) in response to the 10 October, 2002, Notice.

The Notice mailed on 10 October, 2002, hereby is withdrawn as to Page 2 of the specification (description and claims) as described in the specification.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 16 September, 2002, using:

- Pages 1, 3 -19, 20 -21 of specification (description, claims and abstract (on Page 22)) filed on 16 September, 2002; and

- Page 2 of the specification (description and claims), supplied on 1 November, 2002, with an indication on the PALM bib data sheet that 22 pages of the specification (description, claims and abstract) were present on filing.

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

John J. Gillon, Jr.
Senior Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] Pursuant to Petitioner's authorization, the petition fee ($130.00) is being refunded and the fee ($110.00) for a one- (1-) month extension of time within which to file the abstract) is being charged to Deposit Account 02-4800.

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MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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AUG 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Kohei Sugihara et al :
Application No. 10/243,742 : DECISION GRANTING PETITION
Filed: September 16, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 227427US2 :

This is a decision on the petition, filed August 23, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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Paper No. 3

Stephen R. Whitt
1215 Tottenham Court
Reston VA 20194

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DEC 0 9 2002

OFFICE OF PETITIONS

In re Application of
Zhang, et al.
Application No. 10/243,774
Filed: September 16, 2002
Attorney Docket No. TPHO-001
For: GAIN CONTROLLED OPTICAL AMPLIFIER

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

This is in response to the petition under 37 CFR 1.47(a), filed September 16, 2002.

The petition is granted.

Petitioners have shown that the non-signing inventor, Mr. Jihai Zhang, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration/statement of facts of Attorney Stephen R. Whitt and accompanying exhibits establish that the inventor was mailed the application papers, including the specification, claims and drawings, but the inventor subsequently refused in writing to sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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JIHAI ZHANG
2387 BASELINE ROAD
OTTAWA, ONTARIO
CANADA K2C 0E2

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DEC 0 9 2002

OFFICE OF PETITIONS

In re Application of
Zhang, et al.
Application No. 10/243,774
Filed: September 16, 2002
Attorney Docket No. TPHO-001
For: GAIN CONTROLLED OPTICAL AMPLIFIER

LETTER

Dear Mr. Zhang:

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

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

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

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

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

ATTORNEY OF RECORD: Stephen R. Whitt
1215 Tottenham Court
Reston VA 20194

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/14/06

TO SPE OF : ART UNIT 2856

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/243778 Patent No.: 7032435

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

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

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

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext.

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2856
Art Unit

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060105

Attn. Mr. John Castellano
Harness, Dickey & Pierce
12355 Sunrise Valley Drive
Suite 350
Reston, VA 20191

JUN 07 2005

In re Application of:	:	
Kyu Jin Lee et al.	:	DECISION ON PETITION TO
Serial No.: 10/243,784	:	WITHDRAW THE HOLDING
Filed: September 12, 2002	:	OF ABANDONMENT
Attorney Docket No.: AB-1196 US	:	

This is a decision on the petition under 37 C.F.R. § 1.181 filed on February 3, 2004 and refiled on June 17, 2004 to withdraw the holding of abandonment of the above-identified application. There is no fee for this petition.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper response to the non-final Office action mailed on June 18, 2003. A Notice of Abandonment was mailed on January 27, 2004. Petitioner states that the Office action forming the basis of the abandonment was not received and provides a copy of practitioner's file docket records where it is asserted the Office action would have been docketed if it had been received. Petitioner further asserts that his law firm did not become aware of the Office action until a telephone interview with the examiner on January 22, 2004.

FILE HISTORY:

1) on September 12, 2002, the Declaration filed with the application gave power of attorney to the practitioners associated with Customer Number 24251 (Skjerven Morrill LLP, 25 Metro Drive, Suite 700, San Jose, CA 95110);

2) on November 27, 2002, a "REQUEST TO WITHDRAW FROM REPRESENTATION UNDER 37 CFR §10.40(b)(4)" was filed. It was signed by attorney of record Norman Klivans on behalf of all the attorneys and agents of record. It requested that all future correspondence regarding this application be addressed to Harness, Dickey & Pierce, 12355 Sunrise Valley Drive, Suite 350, Reston, VA 20191 with attention to Mr. John Castellano. This request to withdraw from representation was never acted upon by the U.S. Patent and Trademark Office (USPTO);

3) on April 2, 2003, a restriction requirement was mailed to Skjerven Morrill LLP;

4) on May 2, 2003, a response to the restriction requirement was filed at the USPTO. It was signed by John A. Castellano from Harness, Dickey & Pierce, PLC. The address was given as P.O. Box 8910, Reston, VA 20195;

5) on June 18, 2003, the Office action noted above was mailed to Skjerven Morrill LLP;

6) on September 30, 2003, a "REVOCATION AND SUBSTITUTION OF POWER OF ATTORNEY AND CHANGE OF ADDRESS" was filed. It was signed by John A. Castellano and requested that all correspondence be directed to the address associated with Customer No. 30593 (Harness, Dickey & Pierce, P.L.C., P.O. Box 8910, Reston, VA 20195); and

7) on November 10, 2003, the USPTO mailed a "NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY" to Harness, Dickey & Pierce, P.L.C., P.O. Box 8910, Reston, VA 20195 indicating that the Power of Attorney filed on 09/30/03 was accepted; and mailed a "NOTICE REGARDING CHANGE OF POWER OF ATTORNEY" to Skjervin, Morrill LLP indicating that the previous power of attorney had been revoked.

CONCLUSIONS:

The request to withdraw from representation filed on November 27, 2002 was proper and should have been acted upon and approved. As a result of the request to withdraw from representation not being acted upon and approved, the restriction requirement of April 2, 2003 and the Office action of June 18, 2003 were mailed to an incorrect address. Accordingly, the Notice of Abandonment mailed on January 27, 2004 is hereby **VACATED** and the holding of abandonment is withdrawn. The Office action of June 18, 2003 will be remailed to the correct correspondence address and the period for response will be reset to three months from the date of the remailing.

On the other hand, the revocation and substitution of power of attorney and change of address filed on September 30, 2003 was improper and should have been denied. Mr. Castellano was never an attorney of record and did not have the authority to either revoke previous powers of attorney or change the correspondence address. Thus, until otherwise notified by applicants, the correspondence address will be the address requested in the withdrawal from representation filed on November 27, 2002. There are presently no attorneys/agents of record in this application.

Any inquiries concerning this decision should be directed to Edward Westin at (703) 308-4823.

A copy of this decision is being mailed to petitioner's address as a courtesy. Unless otherwise notified by applicant, any future correspondence will be mailed solely to the present correspondence address noted at the top of this decision.

James A Dwyer

for James Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

CC: Harness, Dickey & Pierce, P.L.C.
P.O. Box 8910
Reston, VA 20195

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

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MAY 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Francis J. Martin, et al. :
Application No. 10/243,787 : DECISION ON REQUEST
Filed: September 13, 2002 : TO WITHDRAW
Attorney Docket No. 28217/04002 : 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 10, 2006.

The request is **NOT APPROVED**.

The request was signed by Joan N. Drew on behalf of all attorneys of record who are associated with Customer No. 24024. However, a review of the file record indicates that Joan N. Drew does not have power of attorney in this patent application, nor is this application associated with Customer No. 24024. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

cc: CALFEE, HALTER & GRISWOLD, LLP
1110 FIFTH THIRD CENTER
21 EAST STATE STREET
COLUMBUS OH 43215-4243

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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

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MAY 18 2006
OFFICE OF PETITIONS

In re Application of :
Ernst, et al. :
Application No. 10/243,794 : DECISION ON PETITION
Filed: September 14, 2002 :
Attorney Docket No. RN-101(US) :

This is a decision on the petition under 37 CFR 1.10(d) first filed on September 8, 2004, and in duplicate on October 24, 2005.

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 1.10".

The instant petition was filed to correct what petitioner believed was an incorrect filing date accorded the above-cited application. Petitioner maintains that the correct filing date for the application should be September 13, 2002, not the currently accorded date of September 14, 2002. In support thereof, petitioner filed an a copy of Express Mail label, tracking number EU338538367US with the date-in as September 14, 2002. Petitioner maintains that "date-in" should have been September 13, 2002.

Section 1.10(d) of the Title 37 of the Code of Federal Regulations indicates if a showing is made that the "date-in" on the Express Mail label was incorrectly entered or omitted by the United States Postal Service, a petition to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the United States Postal Service, provided that:

> (1) the petition is filed promptly after the person becomes aware that the Office has accorded or will accord a filing date based upon an incorrect entry by the USPS;
>
> (2) the number on the Express Mail mailing label was placed on a paper(s) or fee(s) that constitute the correspondence prior to the original mailing by Express Mail; and
>
> (3) the petition includes a showing which established, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within

one business day of the deposit of the correspondence in the "Express Mail Post office to Addressee" service of the USPS.

The instant petition does not satisfy the requirements of item (3) above.

Section 513 of the Manual of Patent Examining Procedure, provides in pertinent part, that:

> The showing under 37 CFR 1.10(d) must be corroborated by (1) evidence from the USPS, or (2) evidence that came into being after deposit and within one business day of the deposit of the correspondence as "Express Mail." Evidence from the USPS may be the "Express Mail" Corporate Account Mailing Statement. Evidence that came into being within one day after the deposit of the correspondence as "Express Mail" may be in the form of a log book which contains information such as the "Express Mail" number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log.
>
> The reason the Office considers correspondence to have been filed as of the date of deposit as "Express Mail" is that this date has been verified by a disinterested USPS employee, through the insertion of a "date-in," or other official USPS notation, on the "Express Mail" mailing label. Due to the questionable reliability of evidence from a party other than the USPS that did not come into being contemporaneously with the deposit of the correspondence with the USPS, 37 CFR 1.10(d) specifically requires that any petition under 37 CFR 1.10(d) be corroborated either by evidence from the USPS, or by evidence that came into being after deposit and within one business day after the deposit of the correspondence as "Express Mail."
>
> A petition alleging that the USPS erred in entering the "date-in" will be denied if it is supported only by evidence (other than from the USPS) which was:
>
> (A) created prior to the deposit of the correspondence as "Express Mail" with the USPS (e.g., an application transmittal cover letter, or a client letter prepared prior to the deposit of the correspondence); or
>
> (B) created more than one business day after the deposit of the correspondence as "Express Mail" (e.g., an affidavit or declaration prepared more than one business day after the correspondence was deposited with the USPS as "Express Mail").
>
> On the other hand, a notation in a log book, entered after deposit by the person who deposited the correspondence as "Express Mail" within one business day of such deposit, setting forth the items indicated above, would be deemed on petition to be an adequate showing of the date of deposit under 37 CFR 1.10(d)(3).

Relative to item (3) above, petitioner's docket entry corroborating the mailing of the subject application was not found with instant petition. The docket entry is material to satisfying item (3) above. The undersigned must be able to review the docket entry to determine if it is of any probative value in light of the *MPEP* § 513 cited above. Any renewed petition filed must be accompanied by the copy of the relevant docket entry.

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

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

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

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

Kenya A. McLaughlin
Petitions Examiner
Office of Petitions

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AUG 24 2005

Brian S. Boyer, Ph.D.
SQUIRE, SANDERS & DEMPSEY L.L.P.
1 MARITIME PLAZA, SUITE 300
SAN FRANCISCO CA 94111

In re Application of
Merzouk et al
Serial No. : 10/243,795
Filed : 13 September 2002
Attorney Dkt No. : 59296.3

Decision on Petition

This is in response to the petition under 37 CFR 1.144 filed 11 May 2005, to request review of a restriction requirement.

BACKGROUND

Claims 1-39 were initially pending in this application which was filed under 35 USC 111(a) on 13 September 2002. A restriction requirement was made by the Examiner on September 3, 2004 under 35 U.S.C. 121 as follows:

> Group I: Claims 1-10, 31, 32, drawn to a compound comprising a structure consisting of amino acid sequence of SEQ ID NO: 9-1640,classified in class 424, subclass 85.1.
>
> Group II: Claims 11-21, 33-39, drawn to a method of treating a disease by administering a chemokine analog selected from a compound comprising amino acid sequence of SEQ ID NO: 9-1631 to a patient, classified in class 424, subclass 9.1.
>
> Group III: Claims 22-29, drawn to a method of producing a compound comprising a structure consisting of amino acid sequence of SEQ ID NO: 9-1631 , classified in class 435, subclass 68.1.
>
> Group IV. Claim 30, drawn to a method of modulating the activity of a chemokine receptor by contacting a chemokine receptor with a compound comprising a structure selected from amino acid sequence of SEQ ID NO: 9-1631, classified in class 435, subclass 7.1.

with the additional requirement for the applicants to elect a single SEQ ID NO for any of elected groups I, II or III.

In response to the above restriction requirement, applicants elected with traverse, Group I and a compound comprising amino acid SEQ ID No: 56, arguing that sequences in the application have "unity of invention" as they have "substantial structural similarity" and that Examiner at least increase the sequence requirement to 10 sequences instead of 1.

However, such a request by applicant to allow examination of 10 sequences was denied by the Examiner who argued that searching for more than one sequence would impose a serious burden because (i) each sequence is a different chemokine with different functions, (ii) each sequence will require a different search, (iii) the role of the linker is not disclosed, (iv) searching for all possible linkers taught would be a highly complex search, and (v) attachment of R-groups to the N-terminus such that the peptide functions like the parent molecule raises complex enablement issues and that "unity of invention" does not apply since each sequence is treated as a separate invention rather than a species.

The restriction requirement was made final in the office action mailed 13 January 2005.

Applicants have now petitioned to review the restriction requirement for a chemokine analog consisting of a single amino acid sequence.

DISCUSSION

The application, file history and petition have been considered carefully.

The petition requests that in addition to examination of the elected invention directed to protein having SEQ ID No 56, examination of the proteins having SEQ ID Nos: 59-65, 71 and 72, in view of MPEP 803.04. This is not persuasive. MPEP 803.04 is directed only to a waiver for restriction requirement with regard to nucleic acid inventions described by nucleotide sequences. The Office has not issued any waiver with respect to restriction requirement among protein inventions.

The petition is also not persuasive in view of the fact that there are no claims pending which are directed to the non-elected inventions- all the limitations directed to SEQ ID Nos:59-65, 71 and 72 have been canceled from the claim set. There is no claim pending which encompasses the non-elected inventions.

The request for examination of independent or distinct inventions which are few in number or closely related, in view of MPEP 803.02, is not persuasive because the original claims recited in the alternative amino acid sequences 9-1631 which describe 1623 different chemokine analogs. This is not considered to be few in number. Furthermore, there is nothing on the record to suggest that the chemokine analogs are obvious variants, one of another. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence

now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

DECISION

For these reasons, the petition to withdraw the restriction requirement is **DENIED**.

Any request for consideration must be filed within two (2) months of the mailing date of this decision.

Applicants remain under obligation to reply to the Final Office action mailed 25 July 2005 with in the response time specified therein r as extendable under 37 CFR 1.136(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 703-273-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600.

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NOV 3 2005

Brian S. Boyer, Ph.D.
SQUIRE, SANDERS & DEMPSEY L.L.P.
1 MARITIME PLAZA, SUITE 300
SAN FRANCISCO CA 94111

In re Application of
Merzouk et al
Serial No. : 10/243,795
Filed : 13 September 2002
Attorney Dkt No. : 59296.3

Decision in Response to
Request for Reconsideration

This is in response to the renewed petition under 37 CFR 1.144 filed 26 September 2005, to request review of the decision to a petition from requirement for restriction.

BACKGROUND

A summary of the prosecution history can be found in the previous petition decision.

Applicants petitioned to review the restriction requirement for a chemokine analog consisting of a single amino acid sequence on which was denied on 25 August 2005.

DISCUSSION

The application, file history and petition have been considered carefully.

The petition requests that in addition to examination of the elected invention directed to protein having SEQ ID No 56, examination of the proteins having SEQ ID Nos: 59-65, 71 and 72, in view of MPEP 803.04 and points to text referring to the complexity of protein sequences.

This is not persuasive. MPEP 803.04 is directed only to a waiver for restriction requirement with regard to nucleic acid inventions described by nucleotide sequences. The Office has not issued any waiver with respect to restriction requirement among protein inventions. Also, it is noted that the instant claims are not directed to inventions described simply by their amino acid sequence but to modified amino acid sequences, the search of which cannot be completed by a protein database sequence alone. The instant claims require a text and structure search for the linker required linker region and the

required label. Finally, it is noted that even if the claims were directed to a simple amino acid sequence, 803.04 is permissive in nature and not mandatory.

Applicant argues that the burden for searching small molecules is less than that for searching larger molecules. This is not persuasive as the larger molecules, in general, are defined by more required limitations than a smaller molecule. Inventions which are claimed by fewer required limitations are broader in scope than inventions claimed by more required features. Search and examination burden is measured relative to the effort it takes to find that an invention, as claimed, is free of the prior art, not the effort it takes to find a prior art reference to use in a rejection of a claim. Other factors being equal, search and examination of a broad claim is generally more burdensome than that of a narrow claim.

The request for reconsideration is also not persuasive in view of the fact that there are still no claims pending which are directed to the non-elected inventions- all the limitations directed to SEQ ID Nos:59-65, 71 and 72 have been canceled from the claim set. There is no claim pending which encompasses the non-elected inventions that applicants seek to have rejoined for examination.

The request for examination of independent or distinct inventions which are few in number or closely related, in view of MPEP 803.02, is not persuasive because the 9 is not considered to be few in number. The argument that the CXC chemokine analogs are closely related because they are taken from a specific single CXC chemokine named IL-8 is not persuasive. A single molecule can be used to create a variety of variants which may or may not share a common structure essential to a common utility. Even though each of the analogs was "taken from" IL-8 does not necessarily, in and of itself, correspond to a close relationship between the structures. The request argues that the variants contain IL-8 residues based on residues 1-13 in the N-terminal and 56-71 in the C-terminal region. It is noted, for example, that residues 1-13 are not required by each of the variants- for example, positions 2, 7 and 9 are modified in SEQ ID No 59, while positions 3, 7, 9 and 10 are modified in SEQ ID No 64. Only 5 of the 13 N-terminal residues required by all of the 9 variants are positions 4, 5, 6, Glu-Leu-Arg, position 8, Gln, and position 13 Tyr. It is not readily apparent that these five required residues of 1-13 of IL-8, even taken in combination with a linker and residues 56-71 of IL-8 would necessarily impart a common utility of binding to CXCR1 or CXCR2 receptors. This assessment is consistent with the outstanding rejection of the claims under 112 first paragraph for lack of enabling disclosure that one skilled in the art could make or use the invention without undue burden

It is noted that Claim 2 is a generic claim in that it encompasses many, many species of compounds. The compounds vary with respect to the linker regions, the "R" group and label. 37 CFR 1.141(a) permits that a reasonable number of species that are encompassed by an allowable claim generic thereto to be allowed in a single application. Claim 2 stands rejected under 35 USC 112, for lack of enabling disclosure such that one skilled in the art could make or use the invention without undue burden. Because there is no allowable generic claim encompassing the various variants, restriction to a compound

described by a SEQ ID No 56 is appropriate. It is noted that SEQ ID NO 56 permits variation at various positions and reads upon plural sequences, one of which is fully defined as SEQ ID NO 1633 in claim 44. The examiner has indicated that claim 44 was objected to for depending upon rejected claims but would be allowable if written as an independent claim which includes all the limitations of the base claims.

Finally, there is nothing on the record to suggest that the chemokine analogs are obvious variants, one of another. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

DECISION

For these reasons, the request for reconsideration of the petition decision to withdraw the restriction requirement is **DENIED**.

Any request for reconsideration must be filed within two (2) months of the mailing date of this decision.

The application will be forwarded to the Examiner to consider the response and amendment filed 13 October 2005.

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 703-273-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600.

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MARK B WILSON
FULBRIGHT & JAWORSKI LLP
SUITE 2400
600 CONGRESS AVENUE
AUSTIN TX 78701

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OFFICE OF PETITIONS

In re Application	:	
David S. Wilkes	:	
Application No. 10/243,797	:	DECISION ON APPLICATION
Filed: September 13, 2002	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. INDY:044US	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)", filed November 6, 2007. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be increased from the currently accorded five hundred three (503) days to six hundred ten (610) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **six hundred ten (610) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 11, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is five hundred three (503) days. On November 6, 2007, Applicant timely[1] submitted the instant application for patent term adjustment.

[1] Applicant filed the application for patent term adjustment prior to payment of the issue fee.

Applicant fails to state whether the patent issuing from the application is subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of five hundred three (503) days based on an adjustment of six hundred forty-eight (648) days of PTO delay pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by applicant's delays of four (4), one hundred nine (109), and thirty-two (32) days, pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The adjustment of 109 days is at issue.

A review of the file indicates that the Office mailed a final Office action on March 29, 2006. On May 10, 2006, the Office mailed an Interview Summary, stating that a missing exhibit had been located, and that a supplemental Office action would be issued. The Office mailed this supplemental final Office action on July 14, 2006. The supplemental Office action reset the period for reply. Accordingly, in view of the above, it is concluded that the mailing of the final Office action restarted the clock for Applicant to file a reply within three months pursuant to 37 C.F.R. 1.704(b). Applicants filed an RCE on October 16, 2006. As such, applicant should have been assessed applicant delay of two (2) days, not one hundred nine (109) days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **six hundred ten (610) days** (648 days of PTO delay, reduced by 38 (32+2+4) days of applicant delay).

Receipt of the $200 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enc: updated PAIR screen

PTA Calculations for Application: 10/243797			
Application Filing Date:	09/13/2002	PTO Delay (PTO):	648
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	145
Post-Issue Petitions:	0	Total PTA (days):	610
PTO Delay Adjustment:	107		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
74	02/02/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		2	
73	02/02/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	109		
63	10/11/2007	MAIL NOTICE OF ALLOWANCE			
62	10/11/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
61	10/09/2007	ISSUE REVISION COMPLETED			
60	10/09/2007	DOCUMENT VERIFICATION			
59	10/09/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
58	10/09/2007	CASE DOCKETED TO EXAMINER IN GAU			
57	10/09/2007	NOTICE OF ALLOWABILITY			
56	10/08/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
55	08/29/2007	DATE FORWARDED TO EXAMINER			
54	08/28/2007	AMENDMENT AFTER FINAL REJECTION			
53	07/10/2007	MAIL FINAL REJECTION (PTOL - 326)			
52	07/09/2007	FINAL REJECTION			
51	05/07/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
50	05/07/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
49	05/07/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
48	05/14/2007	DATE FORWARDED TO EXAMINER			
47	05/07/2007	RESPONSE AFTER NON-FINAL ACTION		32	45
46	05/07/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
45	01/05/2007	MAIL NON-FINAL REJECTION			

44	12/26/2006	NON-FINAL REJECTION			
43	10/17/2006	DATE FORWARDED TO EXAMINER			
42	10/16/2006	RCE- AF PROCESSED			
41	10/17/2006	DATE FORWARDED TO EXAMINER			
40	10/16/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		109	24
39	10/17/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
38	10/16/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
37	10/05/2006	MAIL ADVISORY ACTION (PTOL - 303)			
36	10/02/2006	ADVISORY ACTION (PTOL-303)			
35	09/10/2006	DATE FORWARDED TO EXAMINER			
34	09/08/2006	AMENDMENT AFTER FINAL REJECTION			
33	08/17/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
32	08/09/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
31	07/14/2006	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
30	07/12/2006	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
29	07/12/2006	RESTART RESPONSE OF ACTION			
28	06/20/2006	MISCELLANEOUS INCOMING LETTER			
27	05/11/2006	MISCELLANEOUS INCOMING LETTER			
26	05/10/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
25	05/04/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
24	03/29/2006	MAIL FINAL REJECTION (PTOL - 326)			
23	03/28/2006	FINAL REJECTION			
22	02/03/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	02/08/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
20	02/18/2006	DATE FORWARDED TO EXAMINER			
19	02/08/2006	RESPONSE AFTER NON-FINAL ACTION		4	18
18	11/04/2005	MAIL NON-FINAL REJECTION			
17	10/27/2005	NON-FINAL REJECTION			
16	09/22/2005	DATE FORWARDED TO EXAMINER			
15	09/19/2005	RESPONSE TO ELECTION / RESTRICTION FILED			

14	08/22/2005	MAIL RESTRICTION REQUIREMENT	648		-1
13	08/18/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
12	02/03/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	02/03/2003	REFERENCE CAPTURE ON IDS			
10.7	02/03/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	02/03/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	03/03/2003	CASE DOCKETED TO EXAMINER IN GAU			
7	01/03/2003	APPLICATION DISPATCHED FROM OIPE			
6	01/03/2003	APPLICATION IS NOW COMPLETE			
5	12/18/2002	ADDITIONAL APPLICATION FILING FEES			
4	12/18/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
3	10/11/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	09/22/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/13/2002	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Fulbright & Jaworski L.L.P.
Suite 2400
600 Congress Avenue
Austin TX 78701

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In re Patent No. 7,348,005

Issue Date: March 25, 2008

Application No. 10/243,797

Filed: September 13, 2002

Attorney Docket No. **INDY:044US**

: ON PETITION

This is a decision on the request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent by way of Certificate of Correction. The request was filed April 8, 2008.

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 (703) 305-8309.

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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OFFICE OF PETITIONS

In re Application of :
Richard A. WEEKS :
Application No. 10/243,805 : DECISION ON PETITION
Filed: September 13, 2002 : TO WITHDRAW
Attorney Docket No. 20009-0283US01(02008) : 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 24, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because the attorneys of record were not appointed by registration numbers, as indicated.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JERAMIE J. KEYS
P.O. BOX 71355
MARIETTA, GA 30007-1355

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HAYNES AND BOONE, LLP
2323 VICTORY AVENUE
SUITE 700
DALLAS TX 75219

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OFFICE OF PETITIONS

In re Application of
Douglas N. Stephens et al.
Application No. 10/243,823
Filed: March 23, 2006
Attorney Docket Number: 01-0010-US-2
(44755.700)

ON PETITION

This is a decision on the petition, filed March 11, 2010 under 37 CFR 1.137(b)[1], to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned March 3, 2010 for failure to timely pay the issue fee in response to the Notice of Allowance mailed December 2, 2009 which set a three month statutory period for response. The instant petition preceded the mailing of the Notice of Abandonment which was mailed March 15, 2010.

All other requirements of 37 CFR 1.137(b) having now been met, this matter is being referred to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

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SUITE 240
6550 ROCK SPRING DRIVE
BETHESDA MD 20817

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OFFICE OF PETITIONS

In re Patent No. 6,830,358	:	
Issued: December 14, 2004	:	
Application No. 10/243,835	:	DECISION GRANTING PETITION
Filed: September 16, 2002	:	
Attorney Docket No. 5211.006	:	

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed June 8, 2005, and supplemented on April 26, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications by way of a certificate of correction.

The petitions are **GRANTED**.

The instant application was filed September 16, 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.

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.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

A review of the fee history shows the $1,370 surcharge fee was submitted twice. Accordingly, the $1370.00 collected on April 26, 2006 will be credited to petitioner's deposit account as authorized.

A Certificate of Correction was issued on August 8, 2006.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions

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MINNEAPOLIS, MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:	
Shunpei Yamazaki et al	:	
Application No. 10/243,840	:	DECISION GRANTING PETITION
Filed: September 16, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 12732-118001	:	

This is a decision on the petition, filed February 7, 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 22, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2629 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

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

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FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

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OFFICE OF PETITIONS

In re Patent No. 6,886,622 :
Issued: May 3, 2005 : LETTER REGARDING PTA AND
Application No. 10/243,845 : CERTIFICATE OF CORRECTION
Filed: September 16, 2002 :
Atty. Dkt. No.: 054034-0108 :

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed August 5, 2005. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The correct Patent Term Adjustment ("PTA") at the time of the issuance of the patent is 118 days as indicated thereon.

The instant application matured into U.S. Pat. No. 6,886,622 on May 3, 2005 and issued with a PTA of 118 days. Patentees indicate that the 111 days of PTA indicated on the Issue Notification disagrees with their own calculation of adjustment, and request verification of the calculation. The instant communication does not set forth with specificity the nature of the suspected error in calculation.

Accordingly, a general review of the application history has been performed and the adjustment has been recalculated. No error in the adjustment accorded the patent has been found.

An adjustment of 238 days can be attributed to the Office[1]. The adjustment of 238 days was reduced 120 days, the maximum period of reduction allowed under 37 CFR 1.704(c)(10), in connection with the IDS submitted March 30, 2004.

Accordingly, at the time of issuance, the patent was entitled to an adjustment of 118 days as indicated in the patent. However, should patentees still contend that an error in the adjustment

[1] An adjustment of **238 days** can be attributed to the Office in accordance with 37 CFR 1.702(a)(4) for failure to issue the patent within four months of receipt of the issue fee payment. There were no further adjustments attributable to the Office.

exists, patentees are invited to submit a letter within 30 days of the mail date of the instant letter setting forth with specificity the exact nature of the suspected error.

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

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

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

In re Application of:	:	
Tomoko Adachi	:	
Application Serial No.: 10/243895	:	DECISION
Filed: September 16, 2002	:	ON PETITION
For: **RADIO COMMUNICATION SYSTEM, TERMINAL AND PACKET**	:	

This is a decision on the petition, filed on November 20, 2007 under 37 C.F.R. §1.181, requesting that the examiner acknowledge and consider the art cited in an Information Disclosure Statements (IDS) filed on September 16, 2002 and August 10, 2005.

The Office action mailed October 30, 2007 included initialed copies of the IDS filed September 16, 2002 and August 10, 2005.

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

/Eileen Lillis/

Eileen Lillis
Quality Assurance Specialist
Technology Center 2600
Communications

MAIL
JUL 01 2008
DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

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OFFICE OF PETITIONS OFFICE OF PETITIONS

MCDERMOTT, WILL & EMERY
18191 VON KARMAN, SUITE 400
IRVINE CA 92612-0187

In re Application of :
Michael Sandlin et al :
Application No. 10/243,948 : DECISION GRANTING PETITION
Filed: September 16, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 50346-039 :

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**.

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 RCE; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of May 6, 2004 is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center Art Unit 1753.

Karen Creasy

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

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

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MAR 23 2006

OFFICE OF PETITIONS

In re Application of :
Shin-Ichi Tominaga et al :
Application No. 10/243,949 : DECISION GRANTING PETITION
Filed: September 16, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 021166 :

This is a decision on the petition, filed March 22, 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 30, 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 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), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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Paper No. 8

VOLENTINE FRANCOS, PLLC
SUITE 150
12200 SUNRISE VALLEY DRIVE
RESTON VA 20191

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JAN 22 2003

OFFICE OF PETITIONS

In re Application of
Lee, et al.
Application No. 10/243,956
Filed: September 16, 2002
Attorney Docket No. SEC.977
FOR: METHOD OF FORMING A QUANTUM DOT AND A GATE ELECTRODE USING THE SAME

: DECISION GRANTING
: PETITION

This is a decision on the petition entitled, "PETITION UNDER 37 CFR 1.181 TO GRANT FILING DATE, AND REQUESTING REFUND OF PETITION FEE", filed November 26, 2002 (postcard receipt date October 31, 2002), requesting, in effect, withdrawal of the Notice of Incomplete Nonprovisional Application (Notice), mailed October 16, 2002 . The petition will be treated under 37 CFR 1.53(e).

The application was deposited on September 16, 2002. On October 16, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that no filing date had been accorded to the above-identified application because the application as filed did not include drawings.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that the application be accorded a filing date of September 16, 2002 on the basis that 14 sheets of drawing figures were received in the Patent and Trademark Office (PTO) on September 16, 2002. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing September 16, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 14 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 14 sheets of drawing figures were filed on September 16, 2002. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioners' request, the $130.00 petition fee will be credited to deposit account no. 50-0238.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of September 16, 2002, using the copy of the 14 sheets of drawings submitted with the instant petition. Office records will be corrected to show that 14 sheets of drawings were present on filing.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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OFFICE OF PETITIONS

In re Patent No. 6,960,611 :
Issue Date: November 1, 2005 :
Application No. 10/243,957 : ON PETITION
Filed: September 16, 2002 :
Attorney Docket No. 4392-2 :

This is a decision on the "Petition Under 37 CFR 1.182 for Issuance of a Corrected Patent," filed January 10, 2006, which is being treated as a petition under 37 CFR 3.81(b) to accept the correction of the assignee on the front page of the above-identified patent. This is also a decision on the petition under 37 CFR 1.182 to reprint the assignee's name on the front page of the Letters Patent.

The petition under 37 CFR 3.81(b) to correct the assignee's name is **GRANTED**.

The petition under 37 CFR 1.182 to reprint the front page of the Letters Patent is **GRANTED**.

Petitioner asserts that the USPTO incorrectly omitted one of the co-assignees from the face of the above-referenced patent. Petitioner states that both assignees were correctly listed in Section 3 of the PTOL-85 Issue Fee Transmittal form. A copy of the Issue Fee Transmittal accompanies the petition.

Pursuant to 35 U.S.C. 254,

> Whenever a mistake in a patent, incurred through the fault of the Patent and Trademark Office, is clearly disclosed by the records of the Office, the Director may issue a certificate of correction stating the fact and nature of such mistake, under seal, without charge, to be recorded in the records of patents. A printed copy thereof shall be attached to each printed copy of the patent, and such certificate shall be considered as part of the original patent. Every such patent,

> together with such 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. The Director may issue a corrected patent without charge in lieu of and with like effect as a certificate of correction.

In view of the above, the petitions are **granted**. The front page of the Letters Patent will be reprinted to include the omitted assignee's name.

The Office acknowledges receipt of the completed Certificate of Correction form and a $130.00 petition fee. The petition fee is unnecessary due to the error of the USPTO. Therefore, the $130.00 fee will be refunded to Deposit Account No. 14-1140.

The matter is being referred to the Certificates of Correction Branch for appropriate processing of the Certificate of Correction to be placed in the archives of the USPTO and for reprinting the front page of the Letters Patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3211. Telephone inquiries regarding the reprinting of the front page of the Letters Patent should be directed to the Office of Patent Publications at (571) 272-4200.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor, C-23 (FAX 571-273-9756)

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PATTERSON THUENTE SKAAR & CHRISTENSEN PC
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

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AUG 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Kam W. Law et al :
Application No. 10/243, 960 : ON PETITION
Filed: September 13, 2002 :
Attorney Docket No. 3216.43US01 :

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed March 11, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional applications.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR § 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

The instant pending nonprovisional application was filed on September 13, 2002, and was pending at the time of filing of the instant petition. While a reference to the prior-filed provisional applications was not included in an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(6) or in the first sentence of the specification following the title, reference nevertheless was made in both the unsigned oath/declaration submitted with the instant application and in the signed oath/declaration submitted November 29, 2002 in reply to the Notice to File Missing Parts of Nonprovisional Application, mailed October 29, 2002.

The current procedure where a claim for priority under 37 CFR § 1.78(a)(5)(iii) 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 (and was) 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 (or within the time period specified above), 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

[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.

Office noted the claim for priority of the prior-filed provisional applications in both the unsigned and signed oath/declarations, as shown by their inclusion on the filing receipt.

It is further noted that the petition is unnecessary since the claim for priority to the provisional applications noted in the oath/declarations was made within the time period specified in 37 CFR 1.78(a)(5)(ii), although not in the manner required by 37 CFR 1.78(a)(5)(iii) in that the reference to the claim for priority to the provisional applications has not been submitted in either an amendment to the first line of the specification or in an ADS in accordance with 37 CFR 1.78(b)(6). In this regard, 37 CFR 1.78(a)(5)(ii) provides that the claim for priority to the provisional application(s) must have been made within the later of four months from the filing date of the actual nonprovisional application or 16 months from the earliest filing date claimed of the prior-filed provisional application. In this case, the claim for priority was made within four months from the filing date of the application; i.e., in the unsigned oath/declaration submitted with the application and on the signed oath/declaration submitted on November 29, 2002, which is within four months of the September 13, 2002 filing date of the instant application. Additionally, the earliest filing date of two of the provisional applications to which priority is being claimed is September 14, 2001, which is also within 16 months from the September 13, 2002 filing date of the instant application. Also, the provisional applications filed on January 8, 2002 were also within 16 months from the filing date of the instant application.

In view of the above, the filing of the instant petition was unnecessary and is dismissed as involving a moot issue. Accordingly, the $1,330 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Petitioner is advised that an amendment in accordance with 37 CFR 1.78(a)(5)(iii) should be made to include a reference to the prior-filed provisional applications in either the first line of the specification or be included in an ADS in accordance with 37 CFR 1.76(b)(6). *Note also* 37 CFR 1.121.

Any questions concerning this decision on petition may be directed to the undersigned at (703) 305-8680. 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 1756.

Frances Hicks

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

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Paper No. 7

FULBRIGHT & JAWORSKI L.L.P.
A REGISTERED LIMITED LIABILITY PARNERSHIP
SUITE 2400
600 CONGRESS AVENUE
AUSTIN TX 78701-3271

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OFFICE OF PETITIONS

In re Application of :
Thomas L. Floyd :
Application No. 10/243,979 : ON PETITION
Filed: 13 September, 2002 :
Attorney's Docket No. ASGR:051US :

This is a decision on the petition filed on 3 January, 2003 (certificate of mailing date 30 December, 2002), requesting that the above-identified application be accorded a filing date of 13 September, 2002, with Page 1 of the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 13 September, 2002. However, on 28 October, 2002, Initial Patent Examination Division mailed a "Notice" stating that the application had been accorded a filing date but that, *inter alia*, Page 1 of the specification (description and claims) appeared to have been omitted.

In response, on 3 January, 2003, a copy of the specification, the present petition, and a petition fee were filed. Petitioner argues that Page 1 was filed with the other application papers on 13 September, 2002, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 13 September, 2002, the above-identified application number, and acknowledges receipt of, *inter alia*, 38 pages of specification. Petitioner requests that the application, including Page 1 of the specification, be accorded a filing date of 13 September, 2002.

A review of the record reveals that no Page 1 of the specification has been located among the application papers deposited on 13 September, 2002. However, the evidence is convincing that the application papers deposited on 13 September, 2002, included Page 1 of the specification, which was subsequently misplaced in the Office. Therefore, the application, including Page 1 of the specification, is entitled to a filing date of 13 September, 2002.

The "Notice" mailed on 28 October, 2002, is vacated to the extent that it stated that Page 1 appeared to have been omitted from the application.

In view of the above, the petition is granted. The petition fee will be refunded to counsel's deposit account, No. 50-1212.

The application will be processed and examined using the copy of Page 1 supplied on 3 January, 2003. The copies of the other application papers supplied on 3 January, 2003, will not be used for processing or examination, but will be retained in the application file.

The "Election Under 37 CFR 3.71 and 3.73 and Power of Attorney" cannot be accepted because it has not been signed by the inventors, inventors, assignee of record of the entire interest, or an attorney or agent of record. If a change of correspondence address is filed by an assignee, the assignee must establish its right to take action in accordance with 37 CFR 3.73. A review of Office PALM records reveals that no assignment was made by inventor Floyd. Additionally, any statement signed on behalf of an assignee must be signed by a person having apparent authority to sign on behalf of the assignee (president, vice president, secretary, or treasurer), or must include a statement that the person signing the submission is authorized to act on behalf of the assignee. A courtesy copy of the decision will be sent to the address listed on the power of attorney. All future correspondence, however, will be sent solely to the address of record.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 13 September, 2002, using the application papers filed on 13 September, 2002, and the copy of Page 1 supplied on 3 January, 2003.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: Robert E. Hanson
FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVENUE, SUITE 2400
AUSTIN, TX 78701

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SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/243,996	9/12/03	KENNETH RAY NEUMAN, ET AL.	NONE

Title:
AN APPARATUS AND METHOD FOR INSPECTING A TUBLAR WITH ULTRASOUND

Art Unit	Paper Number

Correspondence Address:
MATT KASAP
2001 JEFFERSON DAVIS HWY
SUITE 212
ARLINGTON, VIRGINIA 22202

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 531,246

Grant Date: 12-Sep-03

Approved:
for Commissioner of Patents and Trademarks

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[Title 35, United States Code (1952) Sections 184, 185, 186]

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Paper No. 11

Attn: NEIL K. NYDEGGER
NYDEGGER & ASSOCIATES
348 Olive Street
San Diego CA 92103

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OFFICE OF PETITIONS

In re Application of
Ryba, Lentz & Kudaravalli
Application No.: 10/243,997
Filed: September 12, 2002
Attorney Docket No.: 11350.10
For: REFRIGERATION SOURCE FOR A CRYOABLATION CATHETER

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed July 21, 2003 (certificate of mailing date July 17, 2003).

The petition is granted.

Petitioners have shown that non-signing inventor Kudaravalli has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, Attorney Neil K. Nydegger's declaration and accompanying exhibits establish that non-signing joint inventor Kudaravalli received a copy of the application and declaration for the above-identified application, but did not respond to the request that he sign the declaration for the patent application. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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RAVIKUMAR KUDARAVALLI
1342 BRITTANY DRIVE, APT. C
FLORENCE SC 29501

In re Application of :
Ryba, Lentz & Kudaravalli :
Application No.: 10/243,997 : LETTER
Filed: September 12, 2002 :
Attorney Docket No.: 11350.10 :
For: REFRIGERATION SOURCE FOR A CRYOABLATION CATHETER

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AUG 04 2003

OFFICE OF PETITIONS

Dear Dr. Kudaravalli:

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: NEIL K. NYDEGGER
NYDEGGER & ASSOCIATES
348 Olive Street
San Diego CA 92103

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Paper No. 8

Attn: NEIL K. NYDEGGER
NYDEGGER & ASSOCIATES
348 Olive Street
San Diego CA 92103

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OFFICE OF PETITIONS

In re Application of :
Ryba, Lentz & Kudaravalli :
Application No.: 10/243,997 :
Filed: September 12, 2002 :
Attorney Docket No.: 11350.10 :
For: REFRIGERATION SOURCE FOR A CRYOABLATION CATHETER

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed April 14, 2003 (certificate of mailing date April 9, 2003).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on September 12, 2002 without an executed oath or declaration. Accordingly, on October 10, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declarationand filing fees, and a surcharge for their late filing.

In response, on February 19, 2003 (certificate of mailing date February 10, 2003), a petition for a two month extension of time and required fee, a declaration executed by 2 of 3 joint inventors, the surcharge, and application filing fee were filed.

On March 17, 2003 a Notice of Incompete Reply was mailed. This Notice reiterated the requirement that a proper declaration containing Inventor Kudaravalli's signature be submitted.

In response, on April 14, 2003 (certificate of mailing date April 9, 2003), a petition for an additional two month extension of time and required fee, a petition under 37 CFR 1.47(a), and a petition fee were filed. A declaration of facts of Neil K. Nydegger, attorney for applicants, accompanied the petition. Mr. Nydegger explains that non-signing joint inventor Kudaravalli received a copy of the application and declaration for the above-identified application, but did not respond to the request that he sign the declaration for the patent application.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),

(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The citizenship of non-signing inventor Kudaravalli is not included on the declaration. The citizenship of each inventor must be included on the oath or declaration. As listing the citizenship for each inventor is a statutory requirement under 35 USC 115, it cannot be waived.

Both signing inventors must execute another declaration that lists the application serial number and filing date, contains the signers' own information, and lists Mr. Kudaravalli's citizenship, residence, and post office address.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of the non-signing inventors is REQUIRED. See MPEP 409.03(a).

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 facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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P. O. BOX 2758
RESTON VA 20195

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OFFICE OF PETITIONS

In re Application of :
Clodfelter :
Application No. 10/244,007 :
Filed: September 16, 2002 :
Attorney Docket No. 313131-000011 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed March 19, 2009.

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

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) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Minooka IL 60447

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OFFICE OF PETITIONS

In re Application of :
Liu, et al. : DECISION ON PETITION
Application No. 10/244,020 :
Filed: September 16, 2002 :
For: BHT/3134-86 :

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

The petition is **DISMISSED**.

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

This application became abandoned September 18, 2005 for failure to timely reply to the final Office action mailed June 17, 2005. The Office action set a three month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed December 27, 2005.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition fails to satisfy requirement (1) set forth above. Petitioners have failed to submit a proper reply to the Office action. The examiner of record has deemed that the amendment submitted with the instant petition fails to place the

application in condition for allowance. *See*, enclosed. Any renewed petition must include a proper reply to the outstanding Office action. The reply may consist of an amendment that *prima facie* places the application in condition for allowance; a request for continued examination; a notice of appeal, or a continuation application.

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

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

By facsimile: (51) 273-8300

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: PTOL-303

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/244,020	**Applicant(s)** LIU ET AL.	
	Examiner Donald Sparks	**Art Unit** 2187	

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

THE REPLY FILED 22 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

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

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: *14*.
   Claim(s) rejected: *13*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 3. NOTE: The after-final amendment submitted November proposes to amend claim 14 by including only some of the subject matter recited in claim 13.(i.e. prposed claim 14 fails to include thefollowing limitation recited in claim 13 of "characterized in that controller is operated to back up multimedia data of the memory card in the flash memory drive being backup onto the CD in the disk read-write unit and data stored in the CD is capable of being transmitted to the memory card. Accordingly, for at least the above noted reason the scope of claim 14, as proposed, does not represent the same invention as previously presented and would require further search and consideration by the examiner.

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OFFICE OF PETITIONS

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

In re Patent No. 7,476,257
Issued: January 13, 2009
Application No. 10/244,035
Filed: September 13, 2002
Dkt. No.: 047940-0129

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705", filed January 28. 2009. This matter is being treated under 37 CFR 1.705(d).

Patentee requests that the determination of patent term adjustment be corrected from 380 days to 701 days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

The application matured into U.S. Patent No. 7,476,257 on January 13, 2009 with a revised patent term adjustment of 380 days. The application was filed September 13, 2002. A request for continued examination was filed July 31, 2006. On January 28, 2009, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 701 days under the courts interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentee maintains that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 844 days (523 days + 321 days) as these periods do not occur on the same day. Further, given the applicant delay of 143 days, patentee asserts entitlement to 701 days of patent term adjustment (844 days – 143 days) of patent term adjustment.

Patentee's interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A).
35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[1] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(1)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), September 13, 2002, and ending on the date of filing of a request for continued examination

---

[1] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

(RCE), July 31, 2006 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 508 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 321 days of patent term adjustment accrued for Office issuance of the patent more than three years after the filing date of the application.

The 321 days of patent term adjustment accrued under 37 CFR 1.702(b) overlaps with the 508 days of patent term adjustment under 37 CFR 1.702(a). Entry of both the 508 days and the 321 days is neither permitted nor warranted given that 508 days is the actual number of days issuance of the patent was delayed at the time the RCE was filed.

The Office determined that the 508 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a) accorded prior to the filing of the request for continued examination overlaps with the 321 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b). As such, the Office allowed only entry of the actual period of delay, to wit, 508 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 143 days and the overall adjustment of 523 days, the patent issued with a revised patent term adjustment of 380 days.

In view thereof, no adjustment to the patent term will be made.

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 the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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SUITE 500
SAN DIEGO, CA 92122

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OFFICE OF PETITIONS

In re Application of :
Eric Altschuller :
Application No. 10/244,037 : ON PETITION
Filed: September 14, 2002 :
Attorney Docket No. 15670-046001 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 26, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed October 17, 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 18, 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

Attorney's Docket No.: 15670-046001 / SD2001-213-2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Eric Altschuler
Serial No. : 10/244,037
Filed : September 14, 2002
Title : METHODS FOR TREATING CROHN'S AND OTHER TNF ASSOCIATED DISEASES

Art Unit : 1623
Examiner : Unknown

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

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PETITION TO REVIVE APPLICATION UNDER 37 CFR §1.137(b)

Applicant hereby petitions under 37 CFR §1.137(b) to revive the above application, which was abandoned on May 17, 2003 for failure to respond to the missing parts mailed October 17, 2003.

Enclosed is 1) a proposed response to the missing parts to continue prosecution of the application and 2) please apply the $650 petition fee by a small entity as set forth in 37 CFR §1.17(m) to deposit account no. 06-1050.

Applicant submits that the entire period of delay was unintentional.

Please apply any other charges or credits to Deposit Account No. 06-1050.

CERTIFICATE OF TRANSMISSION BY FACSIMILE

I hereby certify that this correspondence is being transmitted by facsimile to the Patent and Trademark Office on the date indicated below.

August 14, 2003
Date of Transmission

Jeanne Amour Rice
Signature

Jeanne Amour-Rice
Typed or Printed Name of Person Signing Certificate

Received from < 8586785099 > at 8/14/03 7:28:42 PM [Eastern Daylight Time]

Applicant : Eric Altschuler
Serial No. : 10/244,037
Filed : September 14, 2002
Page : 2 of 2

Attorney's Docket No.: 15670-046001 / SD2001-213-2

Respectfully submitted,

Date: Aug. 14, 2003

Gregory P. Einhorn
Reg. No. 38,440

Fish & Richardson P.C.
4350 La Jolla Village Drive, Suite 500
San Diego, California 92122
Telephone: (858) 678-5070
Facsimile: (858) 678-5099

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Received from < 8586785099 > at 8/14/03 7:28:42 PM [Eastern Daylight Time]

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AUG 25 2003

OFFICE OF PETITIONS

In re Application of :
Eric Altschuller :
Application No. 10/244,037 : ON PETITION
Filed: September 14, 2002 :
Attorney Docket No. 15670-046001 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 30, 2003, 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)."

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed October 17, 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 18, 2002.

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

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

by the filing of a continuing application. In an application, 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(d).

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

The oath or declaration as required by the Notice has not been submitted. Accordingly, the petition must be dismissed.

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

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

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

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

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

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

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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) SD 2001-213

First named inventor: Eric Altschuler

Application No.: 10/244,037 Group Art Unit:

Filed: 9/14/02 Examiner:

Title: Methods for Treating Crohn's and other TNF-associated Diseases

Attention: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

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 $650.00 (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 Response to Notice to File Missing Parts 37 CFR 153((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.

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

00000010 10244037

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PTO/SB/64 (10-00)
Approved for use 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.

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)(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.

6/17/03
Date

William C. Fuess
Signature

Telephone Number: (760) 788-7401

William C. Fuess
Typed or printed name

17258 Amarillo Rd.
Address

Ramona, CA 92065

Enclosures: ☑ Fee Payment
☑ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.

☑ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

6/17/03
Date

Signature

Joseph Davidenas
Type or printed name of person signing certificate

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In re Application of
Montminy, et al.
Application No. 10/244,045
Filed: September 11, 2002
Attorney Docket No. SALK3090
(088802-9302)

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47, filed April 23, 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 11, 2002, without an executed oath or declaration. Accordingly, on October 23, 2002, the Initial Patent Examination Division mailed applicant a Notice to File Missing Parts of Nonprovisional Application. This Notice set an extendable period for reply of two months for applicant to file, *inter alia*, an executed or declaration, plus the $130 surcharge for its late filing.

In reply, applicant filed a declaration on March 24, 2003, made timely by obtaining a three month extension of time.[1] The declaration was signed by joint inventors Marc R. Montminy and Stephan Herzig; however, it lacked the signature of joint inventor Bruce M. Spiegelman. Accordingly, a Notice of Incomplete Reply was mailed on April 9, 2003. This Notice required the signature of Spiegelman. The period for reply remained as set forth in the Notice to File Missing Parts.

On April 23, 2003, applicant filed the instant petition under 37 CFR 1.47(a).

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[1] March 23, 2003 fell on a Sunday. See 37 CFR 1.7(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, 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 Barry S. Wilson included, *inter alia*, a declaration of facts from attorney Sheila R. Kirschenbaum. Kirschenbaum stated that a copy of the application papers were forwarded to Spiegelman, by way of his counsel, Pam Ariniello, on December 3, 2002. However, according to Kirschenbaum, during a telephone conversation on April 18, 2003, Ariniello indicated that Spiegelman would not sign the declaration.

The instant petition has been reviewed and determined to be in compliance with 37 CFR 1.47(a). The declaration filed on March 24, 2003 has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

The $130 fee for a petition under 37 CFR 1.47(a) has been charged to Deposit Account No. 50-0872, as authorized. In addition, a four month extension of time was needed to make the petition timely. As applicant already paid $465 for a three month extension of time, the $260 difference between the four month extension of time ($725) and the three month extension of time has also been charged to the deposit account.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
PO BOX 1450, ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

MAY 22 2003

#8

LADAS & PARRY
26 WEST 61 STREET
NEW YORK NY 10023

In re Application of	:	
Dinesh Chakole et al	:	
Serial No.: 10/244,048	:	PETITION TO MAKE SPECIAL
Filed: September 13, 2002	:	
Attorney Docket No.: U014213-7	:	

This is in response to applicants' petition filed October 2, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(d). The delay in acting on this petition is regretted.

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, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

JAMES D IVEY
3025 TOTTERDELL STREET
OAKLAND CA 94611-1742

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DEC 0 3 2003

OFFICE OF PETITIONS

In re Application of :
Cheung, et al. :
Application No. 10/244,051 : ON PETITION
Filed: September 13, 2002 :
Attorney Docket No. P-2232 :

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed November 17, 2003 (Certificate of Mailing dated November 12, 2003).

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of an international application filed on September 9, 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.

In view of the above, the 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 which sets forth a projected publication date of March 18, 2004 accompanies this decision.

The application file is being forwarded to Technology Center 2100, Group Art Unit 2175, for examination in due course.

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing (1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ARIK B. RANSON
GREER BURNS & CRAIN, LTD.
300 SOUTH WACKER DRIVE
SUITE 2500
CHICAGO, IL 60606

COPY MAILED

DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Michael Sailor et al :
Application No. 10/244,053 : DECISION ON PETITION
Filed: September 14, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 0321.67678

This is a decision on the petition under 37 CFR 1.78(a)(6), filed August 30, 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 **GRANTED**.

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

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

The instant pending nonprovisional application was filed on September 14, 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/322,908, which was filed on September 15, 2001, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/322,908 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 Irvin Dingle at (571) 272-3210.

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

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

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

Paper No. 11

ARIK B. RANSON
GREER BURNS & CRAIN
300 SOUTH WACKER DR., STE. 2500
CHICAGO, IL 60606

COPY MAILED

DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Michael Sailor	:	
Application No. 10/244,053	:	
Filed: September 14, 2002	:	
Attorney Docket No. 0321.67678	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 30, 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 October 2, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 3, 2002.

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

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

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

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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EPSTEIN & GERKEN
1901 RESEARCH BOULEVARD
SUITE 340
ROCKVILLE, MD 20850

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OCT 0 2 2006
OFFICE OF PETITIONS

In re Application of :
Kenneth Adams :
Application No. 10/244,062 : DECISION ON PETITION
Filed: September 16, 2002 :
Attorney Docket No. 2401.0303C :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 2, 2006, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely pay the issue and publication fees on or before January 18, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed October 18, 2005. Accordingly, the date of abandonment of this application is October 19, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay.

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON PC
5000 BANK ONE CENTER
1717 MAIN STREET
DALLAS, TX 75201

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APR 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Joseph A. Zupanick :
Application No. 10/244,083 : DECISION GRANTING PETITION
Filed: September 12, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 067083.0190 :

This is a decision on the petition, filed March 31, 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 7, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3672 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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APR 6 2007

OFFICE OF PETITIONS

In re Application of :
Thomas F. **QUATIERI** Jr. :
Application No. 10/244,086 : DECISION GRANTING PETITION
Filed: September 13, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0050.2051-001 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 5, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 1, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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United States Patent and Trademark Office
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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Mail Date: 04/21/2010

Applicant	: Thomas F. Quatieri JR.	: DECISION ON REQUEST FOR
Patent Number	: 7574352	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/244,086	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1080** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Michael D. McIntosh, Esq.
Suite B-6
8000 East Prentice Avenue
Englewood CO 80111

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FEB 0 5 2003

OFFICE OF PETITIONS

In re Application of :
Todd J. McQuire : DECISION GRANTING
Application No. 10/244,097 : PETITION
Filed: September 12, 2002 :
Attorney Docket No. BlueComp 002 :

This is a decision on the petition filed December 6, 2002, requesting that the above-identified application be accorded a filing date of September 12, 2002.

On September 12, 2002, applicants deposited the above-identified application. However, on October 10, 2002, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Application," requiring, inter alia, drawings of applicant's invention and stating that the filing date would be the date of receipt of the omitted drawings. It is noted that the specification deposited on September 12, 2002, describes drawings containing Figure 1-7; however, it appears the United States Patent and Trademark Office (Office) did not receive any drawing sheets.

In response, on December 6, 2002, applicant filed the present petition, and paid the petition fee. Applicant asserted that the drawings were not necessary for an understanding of the subject matter under 35 U.S.C. 113. Specifically, applicant stated that the application is directed towards method claims, and therefore, drawings are not required.

As stated in MPEP § 601.01(f), it is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the

specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors.

This application contains method claims. Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

MPEP § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the requirement for drawings as set forth in the "Notice of Incomplete Application" mailed October 10, 2002, was sent in error and is hereby vacated. The application is accorded a filing date of September 12, 2002.

Accordingly, the petition is granted.

No petition fee is necessary. The $130.00 petition fee will be refunded by treasury check.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 12, 2002, indicating in the Office records that "0" sheets of drawings were present on filing, and the mailing of a corrected filing receipt.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
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. 6

GREENBERG TRAURIG
1750 TYSONS BLVD
12TH FLOOR
MCLEAN, VA 22102

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SEP 05 2003

OFFICE OF PETITIONS

In re Application of :
David Loar, Michael Hartman and :
Brett Keeton :
Application No. 10/244,098 :
Filed: September 13, 2002 :
Title: METHOD AND APPARATUS FOR RF :
TRANSMITTER LAYOUT IN A GAMING HALL:

DECISION REFUSING STATUS
UNDER 37 CFR 1.47

This is in response to the "PETITION FOR COMPLETION OF MISSING PARTS UNDER 37 C.F.R. § 1.47," filed May, 22, 2003. This petition is considered in light of the "SUPPLEMENT TO PETITION FOR COMPLETION OF MISSING PARTS UNDER 37 C.F.R. §1.47," filed June 5, 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 legal representative. **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 13, 2002, without an executed oath or declaration and naming David Loar, Michael Hartman and Brett Keeton as joint inventors. Accordingly, on October 24, 2002, applicants were mailed a "Notice to File Missing Parts of Application," requiring *inter alia* an executed oath or declaration, and a surcharge for late filing. This Notice set a period for reply of two months, with extensions of time obtainable under § 1.136(a).

In response, applicants filed the instant petition[1], along with a declaration executed by inventor Hartman on behalf of himself and on behalf of non-signing inventors David Loar and Brett Keeton; and payment of the late surcharge. Rule 47 applicants maintain that status under 37 CFR 1.47(a) is proper because inventor Loar is unavailable to sign the declaration as he is a member of the armed services called to active duty due to the conflict in Iraq, and inventor Keeton is unable to sign the declaration because he

[1] This response was made timely by an accompanying petition (and fee) for extension for response within the fifth month.

has passed away. Petitioner further states that Hilary Keeton, the legal representative for deceased inventor Brett Keeton, has refused to sign the declaration. In support thereof, petitioner submits the affidavit of Eric Lerude, Assistant General Counsel for assignee, along with documentary evidence of their efforts to have the declaration executed by all of the inventors or their representatives. On June 5, 2003, applicants submitted a declaration executed by joint inventor Loar.

Preliminarily, petitioner is advised that the instant petition (in light of the supplement filed June 5, 2003) is being considered as a request to accept declarations executed by joint inventors Hartman and Loar on behalf of themselves and on behalf of non-signing legal representative Hilary Keeton. 47 status is not applicable to deceased joint inventor Keeton. 37 CFR 1.47 should not be considered an alternative to 37 CFR 1.42 or 35 U.S.C. 117 since the language "cannot be found or reached after diligent effort" has no reasonable application to a deceased inventor. *In re Application Papers Filed September 10*, 1954, 108 USPQ 340 (Comm'r Pat. 1955). See 37 CFR 1.42 and MPEP § 409.01. However, 37 CFR 1.47 does apply where a known legal representative of a deceased inventor cannot be found or reached after diligent effort, or refuses to make application.

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

The instant petition is not grantable because requirements (2) and (4) are not met. Applicants have submitted two separate declarations, one executed by inventor Hartman and one executed by inventor Loar. The Office will accept separate declarations, executed in combination by all of the available joint inventors; however, each declaration must be otherwise in full compliance with §§ 1.63 and 1.64. The declarations submitted are not in compliance with 37 CFR 1.63 and 1.64. The declaration(s) do not identify all inventors by name, residence/post office address, and citizenship, including deceased inventor Brett Keeton. The last known residence/post office address for Mr. Keeton prior to his death should be used. The declaration(s) do not identify Hilary Keeton as the legal representative for inventor Keeton, or include her name, citizenship, residence, and mailing address, as required.

Furthermore, the petition does not include the last known address of the legal representative. See MPEP § 409.03(e).

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
ATTN: NANCY JOHNSON

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 9

GREENBERG TRAURIG
1750 TYSONS BLVD
12TH FLOOR
MCLEAN, VA 22102

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OCT 16 2003

OFFICE OF PETITIONS

In re Application of :
David Loar, Michael Hartman and :
Brett Keeton : DECISION ACCORDING STATUS
Application No. 10/244,098 : UNDER 37 CFR 1.47
Filed: September 13, 2002 :
Title: METHOD AND APPARATUS FOR RF :
TRANSMITTER LAYOUT IN A GAMING HALL :

This is in response to the "REQUEST FOR RECONSIDERATION OF DECISION REFUSING STATUS UNDER 37 CFR 1.47," filed October 14, 2003.

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

The above-identified application was filed on September 13, 2002, without an executed oath or declaration and naming David Loar, Michael Hartman and Brett Keeton as joint inventors. In response to the "Notice to File Missing Parts of Application," mailed October 24, 2002, applicants timely filed the initial petition under § 1.47(a), asserting that the legal representative for deceased inventor Keeton had refused to join in the application. However, the petition was dismissed for failure to submit an acceptable declaration and failure to include the last known address of legal representative Keeton in the petition (Decision mailed September 5, 2003).

On instant renewed petition, rule 47 applicants submitted a declaration executed by inventors Loar and Hartman on behalf of themselves and on behalf of non-signing legal representative Keeton. This declaration has been reviewed and found acceptable. Legal representative Keeton's last known address is deemed to be as set forth in the declaration.

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 3711 for examination in due course.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MRS. HILARY KEETON
150 MULE DEER DRIVE
RENO, NV 89523

COPY MAILED

OCT 16 2003

OFFICE OF PETITIONS

In re Application of
David Loar, Michael Hartman and
Brett Keeton
Application No. 10/244,098
Filed: September 13, 2002
Title: METHOD AND APPARATUS FOR RF TRANSMITTER LAYOUT IN A GAMING HALL

LETTER

Dear Mrs. Keeton:

Your husband is 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 he will be designated therein as a joint inventor.

As the legal representative of a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with your husband as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. 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).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

GREENBERG TRAURIG
1750 TYSONS BLVD
12TH FLOOR
MCLEAN, VA 22102

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GREENBERG TRAURIG LLP
2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA, CA 90404

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MAY 18 2006

OFFICE OF PETITIONS

In re Application of :
Hartman, et al. :
Application No. 10/244,098 : DECISION ON PETITION UNDER
Application Filing Date: September 13, 2002 : 37 CFR 1.137(f)
Attorney Docket No. 77297.004004

This is a decision on the petition under 37 CFR 1.137(f), filed November 14, 2005, to revive the instant non-provisional application.

The petition under 37 CFR 1.137(f) is granted.

This application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B(iii) for failure to timely notify the Office of the filing of an application in a foreign country.

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[1]; (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 Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition is found in compliance with 37 CFR 1.137(f).

Accordingly, the failure to timely notify the Office of a foreign filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The application file is being directed to Technology Center 3700, GAU 3714 for further processing.

Further inquiries regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

[1] The filing of a petition under this section will not relieve applicant of his obligation to reply to any outstanding Office action.

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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BERNHARD P. MOLLDREM, JR.
224 HARRISON STREET
SUITE 200
SYRACUSE, NY 13202

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JUL 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Andrew D. Prudhomme :
Application No. 10/244,114 :
Filed: September 16, 2002 :
Attorney Docket No. 560.026PA :

This is a decision in response to the petition under 37 CFR 1.137(b), filed May 2, 2005, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 17, 2004. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on June 18, 2004. A Notice of Abandonment was mailed on November 16, 2004.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). An Amendment in response to the March 17, 2004 Office action is filed with the instant petition. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 3724 for processing of the Amendment, filed May 2, 2005, in due course.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

WELLS ST. JOHN ROBERTS GREGORY & MATKIN P.S.
601 W. FIRST AVENUE
SUITE 1300
SPOKANE WA 99201-3828

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JAN 2 2 2003

OFFICE OF PETITIONS

In re Application of
Dennison
Application No. 10/244,122
Filed: September 12, 2002
Attorney Docket No. MI22-2111

DECISION GRANTING
PETITION

This is a decision on the petition, filed December 6, 2002, requesting, in effect, withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed October 11, 2002.

The application was deposited on September 12, 2002. On October 11, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioner that page 2 of the specification appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that page 2 be accorded a filing date of September 12, 2002 on the basis that the entire specification, including allegedly missing page 2, was received in the Patent and Trademark Office (PTO) on September 12, 2002. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing September 12, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 30 pages of specification. A review of the application file reveals that there are 29 pages present. Page 2 is missing.

The return postcard constitutes *prima facie* evidence that the entire specification, including missing page 2, was filed on September 12, 2002. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioner's authorization, the $130.00 petition fee will be credited to deposit account no. 23-0925.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of September 12, 2002, using the copy of page 2 supplied with the petition.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 01/16/03

2 Serial/Patent # 10/244,122

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	3	12/06/02	$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $ 130.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 2 3 -- 0 9 2 5

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Postcard receipt proved allegedly missing pg of spec was present on initial filing. Refund Pet fee

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: E Shirene Willis TITLE: Pet. Atty

SIGNATURE: E Shirene Willis PHONE: 308-6712

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alicia Kelly DATE: 1/22/03

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

PTO/SB/44 (10-96) (Form 1050) Entered R.S. 10/27/04

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 6,770,665

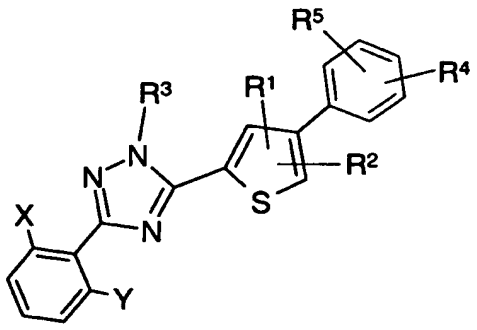
DATED : August 3, 2004

INVENTOR(S) : Vidyadhar Babu Hegde, et al

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

Cover Sheet, Section 54 (title) should read "INSECTICIDAL 3-(2,6-DISUBSTITUTED PHENYL)-5-[4-ARYLTHIEN-2-YL]-1,2,4-TRIAZOLES"
Rather than "INSECTICIDAL 3-(2,6-DISUBSTITUTED PHENYL)-5-[4- OR 5-ARYLTHIEN-2- OR -3-YL]-1,2,4-TRIAZOLES"

Column 83 and 84, Formula (1) should read



(1)

MAILING ADDRESS OF SENDER:

Dow AgroSciences LLC
9330 Zionsville Road
Indianapolis, Indiana 46268

PATENT NO. 6,770,665

Case No. 61.101A No. of additional copies 2

Cert. of Correction
✓ Has been approved

AUG 2 7 2004

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600 10/25/04

OIPE JC16
AUG 20 2004
PATENT & TRADEMARK OFFICE

10/24/04

C97C

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as postage prepared First Class mail addressed to the Commissioner for Patents, Alexandria, VA 22313, on the dated indicated below.

Date: August 17, 2004 Michele Lyons

Michele Lyons

August 17, 2004

Commissioner for Patents
Alexandria, VA 22313
ATTN: Certificate of Corrections Branch

Certificate
AUG 25 2004
of Correction

Subject: United States Patent No. 6,770,665 B2
INSECTICIDAL 3-(2,6-DISUBSTITUTED PHENYL)-5-[4- OR 5-ARYLTHIEN-2- OR -3-YL]-1,2,4-TRIAZOLES
Granted August 3, 2004
Vidyadhar Babu Hegde, et al
Assignors to Dow AgroSciences LLC

Sir:

It is requested that in accordance with the provisions of 37 CFR §1.323(a), a Certificate of Correction is being issued without charge upon the above-Letters Patent and recorded in the record of patents. Errors stated in the attached Certificate of Correction are evidenced in amendments dated June 17, 2003 and September 17, 2003.

Respectfully submitted,

Craig E. Mixan

Craig E. Mixan
Registration No. 32,709
Phone: (317) 337-4812

9330 Zionsville Road
Indianapolis, Indiana

AUG 27 2004

61,101A

UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 2 8 2007

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

OSHA LIANG L.L.P./SUN
1221 MCKINNEY, SUITE 2800
HOUSTON TX 77010

In re Application of:
SIMPSON, NIGEL D.
Application Serial No.: 10/244,131
Filed: September 13, 2002
For: **METHOD AND SYSTEM FOR VOICE CONTROL OF SOFTWARE APPLICATIONS**

DECISION
ON PETITION

This is a decision on the petition to withdraw the final Office action filed October 31, 2006, pursuant to 37 CFR § 1.182. The petition is treated as filed pursuant to 37 CFR 1.181.

Petitioner contends that the Office action mailed August 21, 2006 should not have been made final because the Pre-Appeal Conference Decision dated August 31, 2006 indicates that the previous rejection is withdrawn and prosecution re-opened.

The petition is **GRANTED**.

Re-opening prosecution does not preclude the examiner from using the same applied references as those applied in the previous final action. Apparently, the Pre-Appeal Conferees were of the opinion that further or modified explanation of the references was necessary to clarify the Office's position. In order to provide the least burden on applicant, the examiner prepared a new Office action rather than maintaining the rejection and adding new arguments in an Examiner's Answer. The new Office action mailed August 21, 2006 was made final.

If the new action was properly made final then the indication of the panel decision to withdraw the previous final Office action was possibly in error since the basic thrust of the rejection remains the same. There is an apparent inconsistency in the record between the Notice of Panel Decision mailed August 31, 2006 and the final Office action mailed August 21, 2006.

Accordingly, the final Office action mailed August 21, 2006 is withdrawn

The file is being forwarded to the examiner for preparation of a new non-final Office action or other appropriate action. This decision does not affect the merits of the final Office action mailed August 21, 2006 only the finality thereof. The examiner should make any necessary updates to the search and other appropriate changes commensurate with this decision.

Mark Powell, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

Mail Date: 04/20/2010

Applicant	: Joseph E. Kaminkow	: DECISION ON REQUEST FOR
Patent Number	: 7601057	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/244,134	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1154** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

MAY 2 8 2003

Technology Center 2100

Perkins Coie LLP
PATENT-SEA
P.O. Box 1247
Seattle, WA 98111-1247

In re Application of Malden et al.
Application No. 10/244,137
Filed: September 12, 2002
Attorney Docket No. 384818029US1
Title: DISSEMINATING INFORMATION ABOUT SECURITY THREATS

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(d)

This is a decision on the petition to make special filed October 18, 2002, under 37 C.F.R. §1.102(d).

The petition is **DISMISSED**.

M.P.E.P. §708.02 (XI), which sets out the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 1.102(d), states in relevant part:

> International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.
>
> Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(i) requesting the Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. §708.02(XI). Although it can be said that a computer implemented method for analyzing information related to security threats would limit acts of terrorism, the method disclosed in the petition does not teach directly preventing potential terrorist acts by identifying terrorists. The disclosed invention only indicates that the individual may or may not be a security threat. The method does not identify an individual as a terrorist or one who will perform a terrorist act when it is determined that an individual matches a certain type of information. As a result, no advancement in the technology of countering terrorism has been persuasively shown in the petition.

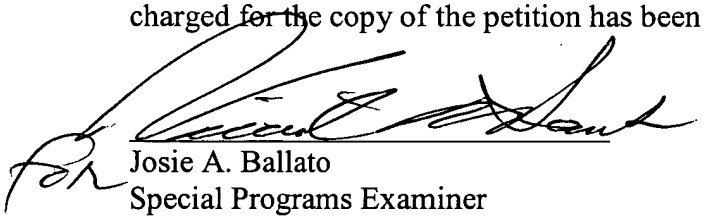
Accordingly, the petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

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

Applicants can file a request for reconsideration with specific recitations that directly prevent acts of terrorism.

It is suggested that Applicant review M.P.E.P. §708.02 regarding other grounds available for filing a petition to make special. In particular, note M.P.E.P. §708.02(VIII): Accelerated Examination, which does not place limitations on the subject matter of the application.

In reviewing the application papers, the original petition was found in the application and that the petition faxed April 10, 2003 was merely a **copy** of the original petition filed October 18, 2002. Since a check of $130.00 was received and deposited with the original petition, the duplicate fee charged for the copy of the petition has been credited to deposit account number 50-0665.



Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
(703) 308-0269

RDD

#8

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ALEXANDRIA, VA 22313-1450
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JUL 07 2004

TECHNOLOGY CENTER 2100

Paper No. 8

Steven D. Lawrenz
Perkins Coie LLP
Patent – SEA
P.O. Box 1247
Seattle, WA 98111-1247

In re Application of: Malden et al.
Application No. 10/244,137
Attorney Docket No. 384818029US1
Filed: September 12, 2002
For: DISSEMINATING INFORMATION ABOUT SECURITY THREATS

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR §1.102(d) – COUNTERING TERRORISM

This is a decision on the request for reconsideration on the petition to make special. The request was filed on January 30, 2004 under 37 CFR §1.102(d), in accordance with MPEP 708.02(XI), and requests advancement of examination under the exception that the application is for an invention for countering terrorism.

The renewed petition that supplemented the original petition was accompanied by a preliminary amendment. In addition, petitioners set forth further reasons why the pending claimed invention contributes to countering terrorism and specifically points out additional support in the disclosure for this purpose.

The petition is **GRANTED**. The application has been granted special status.

The application has been forwarded to the appropriate art unit for examination.

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 308-0269

UNITED STATES PATENT AND TRADEMARK OFFICE

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CSA LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN TX 78759

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JUL 10 2007

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Malden et al.	:	
Application No. 10/244,137	:	
Filed: September 12, 2002	:	
Attorney Docket No. OIC0089US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 1, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 2100 for further processing.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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TOWNSEND AND TOWNSEND AND
CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAY 20 2005

OFFICE OF PETITIONS

In re Application of	:	
Nargessi et al.	:	
Application No. 10/244,144	:	DECISION
Filed: September 12, 2002	:	ON PETITION
Title of Invention:	:	
ISOLATION AND PURIFICATION OF	:	
NUCLEIC ACIDS	:	

This is a decision in response to the Petition Under 37 CFR § 1.137(b), filed May 2, 2005, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed March 17, 2004. The Office action set a three (3) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on November 4, 2004. A Notice of Abandonment was mailed on November 16, 2004.

With the instant petition, Applicant has filed a response to the May 3, 2004 Office action. Accordingly, the petition is granted.

This application is being referred to Technology Center Art Unit 1637 for processing of the Amendment and Response, filed May 2, 2005, in due course.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/244,164

Paper No.: _____

DATE : 2/23/05

TO SPE OF : ART UNIT 1774

SUBJECT : Request for Certificate of Correction on Patent No.: 6818327

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:

Rena Dye — SPE

1774 — Art Unit

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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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FEB 27 2007

OFFICE OF PETITIONS

CALIPER LIFE SCIENCES, INC.
605 FAIRCHILD DRIVE
MOUNTAIN VIEW, CA 94043-2234

In re Application of
Joseph A. Kercso, et al.
Application No. 10/244,227
Filed: September 16, 2002
Attorney Docket No. 100/03911

ON PETITION

This is a decision in response to the petition, filed September 21, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 3, 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 June 4, 2006. On September 21, 2006, the present petition was filed. A Notice of Abandonment was subsequently mailed on September 26, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1.500.00; and (3) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 1743 for consideration of the amendment filed September 21, 2006.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Arthur G. Schaier
Carmody & Torrance LLP
50 Leavenworth Street
P.O. Box 1110
Waterbury CT 06721-1110

MAIL

APR 20 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
POP, IOAN :
Serial No.: **10/244,235** :
Filed: September 16, 2002 : DECISION ON PETITION
For: **METHOD FOR GENERATING CUSTOMIZED INK/MEDIA TRANSFORMS** : *ACCEPTANCE OF COLOR PHOTOGRAPHS*

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed September 17, 2002, requesting acceptance of color drawings.

The petition requests that the color drawings identified in figures 1- 6, and 9 - 12 be accepted in lieu of black and white drawings.

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

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

The petition is **GRANTED**.

Michael Horabik
Special Program Examiner
Technology Center 2600
Communications

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

WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD CT 06905

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MAR 2 8 2003

OFFICE OF PETITIONS

In re Application of :
Walker et al. : DECISION GRANTING
Application No. 10/244,262 : PETITION
Filed: September 16, 2002 :
Attorney Docket No. 02-067 :

This is a decision on the petition under 37 CFR 1.10(c), filed February 27, 2003, requesting that the above-identified application be accorded a filing date of September 16, 2002, rather than the presently accorded filing date of September 10, 2002.

Petitioner alleges that the application was deposited in Express Mail service on September 16, 2002. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EV141691691US. The "date-in" indicated on the Express Mail label is "September 16." Additionally, the petition is accompanied by a United States Postal Service Track & Confirm receipt indicating that a package bearing Express Mail label No. EV141691691US was delivered at 11:52 am on September 17, 2002 in Arlington, Virginia, 22202 to the USPTO. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**. No petition fee is necessary.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to September 16, 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

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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Hoffman Warnick, LLC
75 State Street
14th Floor
Albany, NY 12207

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OCT 30 2008

OFFICE OF PETITIONS

In re Application of :
Edward Vernon Busch et al. :
Application No. 10/244,263 : DECISION ON PETITION
Filed: September 16, 2002 :
Attorney Docket No. RSW920020086US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 31, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within the one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1) mailed December 26, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on October 15, 2006. See MPEP 1215.04. A Notice of Abandonment was mailed on July 9, 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 Appeal Brief, with the required fee of $510.00, (2) the petition fee of $1540, 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 the Technology Center AU 2178 for appropriate action in the normal course of business for processing of the Appeal Brief received July 31, 2008.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 10 2009

OFFICE OF PETITIONS

Porter Wright Morris & Arthur, LLP
Intellectual Property Group
41 South High Street
28th Floor
Columbus, OH 43215

In re Application of	:	
Ib Mendel-Hartvig et al.	:	
Application No. 10/244,265	:	ON PETITION
Filed: September 16, 2002	:	
Attorney Docket No. 25401-7	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 17, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 4, 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 were obtained. Accordingly, the date of abandonment of this application is December 5, 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 RCE (Request for Continued Examination), with the required fee of $810, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

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

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

This application is being referred to Technology Center AU 1641 for processing of the RCE and any action that is required by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

DATE: June 29, 2007
TO: Certificates of Correction Branch
FROM: Cynthia H. Kelly
SPE, Technology Center 1700
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,756,188 as specified on the attached Certificate.

Cynthia H. Kelly
Supervisory Patent Examiner
Technology Center TC 1700

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,756,188
Patented: June 29, 2004

Please correct the inventorship by adding the name of Siu C. Tsoi.

Accordingly, insert the following in the inventor section:

Siu C. Tsoi

Cynthia H. Kelly
Supervisory Patent Examiner
Technology Center 1700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Richard L. Miller
12 Parkside Drive
Dix Hills NY 11746-4879

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AUG 09 2005

OFFICE OF PETITIONS

In re Application of :
BREWSTER, Frederick A. :
Application No.: 10/244,279 :
Filing Date: September 16, 2002 :
Docket No.: BREF41A :
For: GRIP ADJUSTING INSERT FOR A HOLE IN A BOWLING BALL :

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on November 4, 2004.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed June 20, 2003, which set a shortened statutory period for reply of three (3) months. The application went abandoned at midnight on September 20, 2003. A Notice of Abandonment was mailed on January 26, 2004.

Petitioner has met the requirements for revival under §1.137(b). Petitioner submitted the reply in the form of an amendment, paid the petition fee and made the required statement of unintentional delay. Since this utility application was filed after June 8, 1995, no terminal disclaimer is required. Accordingly, the petition is granted under §1.137(b).

This application is being referred to Technology Center 3711 for continued processing.

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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
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UNILEVER INTELLECTUAL PROPERTY GROUP
700 SYLVAN AVENUE
BLDG C2 SOUTH
ENGLEWOOD CLIFFS NJ 07632-3100

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SEP 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Earl Carroll Eichelberger et al :
Application No. 10/244,284 : ON PETITION
Filed: September 16, 2002 :
Attorney Docket No. F6150/1(V) :

This is a decision on the petition, filed September 6, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on August 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 1761 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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UNILEVER PATENT GROUP
800 SYLVAN AVENUE
AG West S. Wing
ENGLEWOOD CLIFFS, NJ 07632-3100

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JUN 18 2008

OFFICE OF PETITIONS

In re Application of :
Earl Carroll Eichelberger, et. al. :
Application No. 10/244,284 : DECISION ON PETITION
Filed: September 16, 2002 :
Attorney Docket No. F6150/1(V) :

This is a decision on the petition under 37 CFR 1.137(b), filed on October 11, 2007, to revive the above-identified application.

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

The petition 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 $810 filing fee and an amendment; (2) the petition fee of $1,540; and (3) a proper 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 1761 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

Date : February 27, 2007

Patent No. :7,049,071
Inventor(s) : Walmsley, et al.
Issued :May 23, 2006
Title :DETECTION O FDAN DAMAGING AGENTS
Docket No. :81926.0001

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

By fax: 571-273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 ext. 123

Troy M. Schmelzer,
Hogan & Hartson LLP
1999 Avenue of the Stars, Ste 1400
Los Angeles, CA 90067

CBN/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOGAN & HARTSON L.L.P.
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES CA 90067

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OFFICE OF PETITIONS

In re Patent No. 7,049,071 :
Issue Date: May 23, 2006 :
Application No. 10/244,292 : ON PETITION
Filed: September 16, 2002 :
Attorney Docket No. 81926.0001 :

This is a decision on the petition filed July 11, 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) 272-3205. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Alesia M. Brown
Petitions Attorney
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WAYNE P. BAILEY
STORAGE TECHNOLOGY CORPORATION
ONE STORAGE TEK DRIVE
LOUISVILLE, CO 80028-4309

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MAY 23 2005

OFFICE OF PETITIONS

In re Application of :
Mark Hennecken :
Application No. 10/244,294 : ON PETITION
Filed: September 16, 2002 :
Attorney Docket No. 2002-024-TAP :

This is a decision on the petition under 37 CFR 1.137(b), filed October 14, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed May 12, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 13, 2004.

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

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

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

Retta Williams

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

Pet. Dec.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: MAY 18 2004

PAPER NO.

In re Application of :
Chou, Stephen :
Serial No: 10/244,303 :
Filed: September 16, 2002 :
For: LITHOGRAPHIC METHOD FOR MOLDING: PATTERN WITH NANOSCALE DEPTH :

DECISION
ON
PETITION
UNDER 708.02,VIII

This is in response to the petition filed December 19, 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).

The petition has been found to be deficient for the following reason: Section 708.02, VIII(C) requires that a pre-examination search be made; this search should cover all areas searchable by the examiner. However, our review shows Class 264, subclasses 1.1, 1.31, 1.7, 2.7, and 334 should have been searched.

Accordingly, the petition is **DENIED.**

Marian C Knode

Marian C. Knode, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

LOWENSTEIN SANDLER PC
65 Livingston Avenue
Roseland NJ 07068

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

Mailed:
JUL 14 2003

chk #4
Paper No.

In re Application of Tukaram K. Hatwar
Serial No.: 09/244,314
Filed: September 16, 2002

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

For: WHITE ORGANIC LIGHT EMITTING DEVICES WITH IMPROVED PERFORMANCE

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed February 19, 1999 to correct inventorship under 37 C.F.R. 1.48(a) by adding the name of Yuji Hamada 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.

Cynthia H. Kelly
Supervisory Patent Examiner
Technology Center 1700

RAYMOND L. OWENS/JMD
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER, NEW YORK 14650

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Thomas H. Close
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

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AUG 1 0 2005

OFFICE OF PETITIONS

In re Application of :
Tukaram K. Hatwar :
Application No. 10/244,314 :
Filed: September 16, 2002 :
Attorney Docket Number: :
84915RLO : ON PETITION

This is a decision on the petition filed August 1, 2005, requesting previously filed terminal disclaimers be withdrawn.

The petition is granted.

Petitioner asserts that the terminal disclaimer filed in application serial numbers 10/606,446, 10/801,997, 10/644,245, and patents 6,692,846, 6,627,333, and 6,696,177, are no longer required. As the examiner has concurred, the requested relief has been favorably considered.

This application is being referred to Technology Center AU 1774 for correction of PALM and file records consistent with this decision.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PFIZER INC
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK NY 10017-5612

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SEP 01 2006

OFFICE OF PETITIONS

In re Application of :
Munchhof, et al. :
Application No. 10/244,324 : ON PETITION
Filed: September 16, 2002 :
Attorney Docket No. PC9882C :
For: THIENOPYRIMIDINE AND
THIENOPYRIDINE DERIVATIVES
USEFUL AS ANTICANCER AGENTS

This is a decision on the petition under 37 CFR 1.137(b), filed April 7, 2006, to revive the above-identified application.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed August 29, 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 November 30, 2005 for failure to reply. A Notice of Abandonment was mailed on March 10, 2006.

Petitioners have submitted an amendment in reply to the August 29, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the August 29, 2005 non-final Office action, and the required petition fee.

The petition is **GRANTED**.

The application file is being forwarded to Technology Center AU 1624 for consideration of the amendment filed on April 7, 2006.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/244,326

Paper No.: _____

DATE : 2/25/05

TO SPE OF : ART UNIT 1712

SUBJECT : Request for Certificate of Correction on Patent No.: 6800152

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
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

The certificate of correction filed November 24, 2004 merely provides grammatical corrections except for the correction to column 26, line 23, which more clearly specifies the amount basis of the catalyst. Accordingly, the certificate of correction is acceptable

RANDY GULAKOWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

SPE

1712
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FULBRIGHT & JAWORSKI LLP
600 CONGRESS AVENUE STE 2400
AUSTIN TX 78701

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MAY 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Andras Konya, Hideki Hyodoh, : DECISION ON PETITION
Kenneth C. Wright :
Application No. 10/244,333 :
Filed: September 16, 2002 :

This is a decision on the "Petition Under 37 CFR 1.182 to Change Order of Inventors", filed May 10, 2004.

The petition under 37 CFR 1.182 is **GRANTED**.

Petitioner has paid the petition fee under 37 CFR 1.182 and indicated the desired order of inventorship.

Records in the above-identified application have been changed to reflect that Andras Konya is the first named inventor, Hideki Hyodoh is the second named inventor, while Kenneth C. Wright is the third named inventor.

The petition fee of $130 has been charged to Deposit Account No. 50-1212, as authorized.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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DECKER, JONES, MCMACKIN, MCCLANE, HALL & BATES, P.C.
BURNETT PLAZA 2000
801 CHERRY STREET, UNIT #46
FORT WORTH TX 76102-6836

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MAY 2 2 2008

OFFICE OF PETITIONS

In re Application of :
Roland CHEMALI et al :
Application No. 10/244,340 : ON PETITION
Filed: 9/16/2002 :
Attorney Docket No. 6475.37019 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed 10/3/2007, 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 12/19/2006, 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) was obtained. Accordingly, the above-identified application became abandoned on 3/20/2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment that *prima facie* places the application in condition for allowance; (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 12/19/2006 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1050 extension of time fee submitted with the petition on 10/3/2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account 23-2770.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 2862 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

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BOX IP, 18TH FLOOR
ONE FINANCIAL CENTER
BOSTON, MA 02111

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Hans-Ulrich Demuth et al
Application No. 10/244,347
Filed: September 16, 2002
Attorney Docket No. 20488/35

This is a decision on the petition, filed May 19, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 14, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application file will be referred to Technology Center AU 1626for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-11-05

TO SPE OF : ART UNIT 2851

SUBJECT : Request for Certificate of Correction on Patent No.: 6819403

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.

E. James

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:

Alan A. Mathews

SPE

2851

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. 6,819,403 B2

DATED: November 16, 2004

INVENTORS: Hideki KOMATSUDA

Approved
AM
2-8-05

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

In claim 6, column 28, lines 7-8, "claims 1-11" should read --claims 1-5 and 7-11--.

In claim 13, column 28, lines 12-13, "claims 1-11" should read --claims 1-5 and 7-11--.

In claim 14, column 28, line 28, "filter, members" should read --filter members--.

In claim 35, column 31, line 45, "t least" should read --at least--.

MAILING ADDRESS OF SENDER

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

Patent No. 6,819,403 B2

No. of additional copies
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DEC 13 2004

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-11-05

TO SPE OF : ART UNIT 2851

SUBJECT : Request for Certificate of Correction on Patent No.: 6819403

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.

E. James

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:

Alan A. Mathews
acting SPE in 2851
SPE

2851
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. 6,819,403 B2

DATED: November 16, 2004

INVENTORS: Hideki KOMATSUDA

Approved
AM
1-24-05

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

In claim 6, column 28, lines 7-8, "claims 1-11" should read --claims 1-5 and 7-11--.

In claim 13, column 28, lines 12-13, "claims 1-11" should read --claims 1-5 and 7-11--.

In claim 14, column 28, line 28, "filter, members" should read --filter members--.

In claim 35, column 31, line 45, "t least" should read --at least--.

MAILING ADDRESS OF SENDER

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

Patent No. 6,819,403 B2

No. of additional copies
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BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

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OFFICE OF PETITIONS

In re Application of

Hyung Choon Lee :

Application No. 10/244,381

: DECISION ON PETITION

Filed: September 17, 2002

:

Attorney Docket No. 0662-0168P

This is a decision on the petition under 37 CFR 1.137(b), filed, November 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 June 1, 2004, which set a shortened statutory period for reply of three (3) months from its mailing date. A response was filed on September 1, 2004. By an Advisory Action mailed September 15, 2004, petitioner was advised that the response of September 1, 2004, did not place the application in condition for allowance. No further reply was received within the allowable period and the application became abandoned on September 2, 2004. A Notice of Abandonment was mailed on December 27, 2004.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply form the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office.

The request for extension of time within the third month, filed November 16, 2006, is noted but cannot be granted as the request was made outside the maximum statutory period for reply to the final Office action. The amount of $510.00 will be refunded, in due course.

The Request for Continued Examination, filed November 16, 2006, is noted.

The application is being forwarded to Technology Center 3600, GAU 3632 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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RANDY SHAY
P.O. BOX 2607
FAIRFAX, VA 22031

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OFFICE OF PETITIONS

In re Application of
Gordon D. Blacklock
Application No. 10/244,400
Filed: September 17, 2002
Attorney Docket No. 02-027

ON PETITION

This is a decision on the petition, filed November 21, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

A non-Final Office Action was mailed May 19, 2004. A response was due not later than August 19, 2004. A response in the form of an amendment was filed September 20, 2004 with a one month extension of time request. On February 7, 2005 the applicant was advised that the amendment filed was non-compliant under 37 CFR 1.121. The time for response was one month from the mailing of the February 7, 2004 Notice. Accordingly, a Notice of Abandonment was mailed October 21, 2005.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

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

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

A supplemental amendment is submitted with the petition to revive. This matter is being referred to Technology Center 3732 for processing of the amendment.

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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WASHINGTON, D.C. 20231
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Paper No. 5

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JAN 10 2003

OFFICE OF PETITIONS

Martin Parkinson
6 North Delaware Drive
Nyack NY 10960

In re Application of :
Milton Glicksman :
Application No. 10/244,437 : DECISION GRANTING PETITION
Filed: September 16, 2002 :
Attorney Docket No. M-1040 :

This is a decision on the petition filed October 30, 2002, requesting that the above-identified application be accorded a filing date of September 16, 2002.

On September 16, 2002, applicant filed the above-identified application. On October 17, 2002, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," stating that the application had not been accorded a filing date as the application was deposited without drawings and that the filing date would be the date of receipt of the omitted drawings.

On October 30, 2002, applicants filed, inter alia, the present petition, a $130.00 petition fee, and four (4) sheets of drawings consisting of Figures 1-6. The petition is accompanied by a copy of applicant's postcard receipt acknowledging receipt of four (4) sheets of drawings in the United States Patent and Trademark Office (Office) on September 16, 2002. Applicant requests that the application, including four (4) sheets of drawings, be accorded a filing date of September 16, 2002.

Upon review of the record, the four drawing sheets, deposited on September 16, 2002, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on September 16, 2002, included four sheets of drawings, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including four sheets of drawings (Figs. 1-6), was complete on filing and will be granted a filing date of September 16, 2002.

Accordingly, the petition is granted.

The Notice of October 17, 2002, was sent in error and is hereby vacated. Accordingly, the $130.00 petition fee is unnecessary and will be refunded by treasury check.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of September 16, 2002, using four sheets of drawings submitted on October 30, 2002, and the mailing of a corrected filing receipt. The Office records should indicate that "4" sheets of drawings were submitted on filing.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE M. HUFF

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/244,451

Paper No.: _____

DATE : 4/21/05

TO SPE OF : ART UNIT 1756

SUBJECT : Request for Certificate of Correction on Patent No.: 6821689

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**

BEST AVAILABLE COPY

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:

_____

_____

_____

_____

_____

Mark F. Huff 6/3/05 1756

SPE **Art Unit**

MARK F. HUFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

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DOUGLAS S. JOHNSON
DENNISON ASSOCIATES
133 RICHMOND STREET WEST, STE. 301
TORONTO ON M5H 2L7 CA CANADA

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OCT 0 3 2006
OFFICE OF PETITIONS

In re Application of :
Robert Rumble :
Application No. 10/244,478 : ON PETITION
Filed: 17 September, 2002 :
Atty Docket DSJ-11389US :

This is a decision on the paper entitled "PETITION TO WITHDRAW HOLDING OF ABANDONMENT" filed on 21 March, 2006.

This application became abandoned on 7 January, 2006, for failure to timely submit the issue fee in response to the Notice of Allowance and Fee(s) Due mailed on 6 October, 2005, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 24 February, 2006.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to non-receipt of the Notice mailed on 6 October, 2005. In support of the allegation that the final Office action was never received, petitioner has submitted a copy of a docket record and provided a statement by Neil McFater that that a search of the file and docket records indicate that no Office action was received.

A review of the record indicates no irregularity in the mailing of the Office communication mailed on 6 October, 2005, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office

communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1] For example, if a three month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action.

The showing of record is insufficient to warrant withdrawal of the holding of abandonment at this time. Petitioner has not included a statement by the practitioner 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. Petitioner provided an affidavit signed by Neil McFater, whom petitioner states is a law parter of registered patent attorney Douglas S. Johnson. Mr. McFater, however, is not listed as an attorney of record, nor does he appear to be a registered patent attorney.

The petition is therefore dismissed pending submission of a statement by the practitioner as indicated above.

As such the application is properly held abandoned.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

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

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[1] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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

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Commissioner for Patents
United States Patent and Trademark Office
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DOUGLAS S. JOHNSON
DENNISON ASSOCIATES
133 RICHMOND STREET WEST, STE. 301
TORONTO ON M5H 2L7 CA CANADA

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APR 0 3 2007

OFFICE OF PETITIONS

In re Application of :
Robert Rumble :
Application No. 10/244,478 : ON PETITION
Filed: 17 September, 2002 :
Atty Docket DSJ-11389US :

This is a decision in reference to the papers filed on 28 November, 2006, which are treated as a renewed petition to withdraw the holding of abandonment in the above-identified application.

This application was held abandoned on 7 January, 2006, for failure to timely submit the issue fee in response to the Notice of Allowance and Fee(s) Due mailed on 6 October, 2005, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 24 February, 2006. The petition filed on 21 March, 2006, was dismissed on 3 October, 2006.

In the present renewed petition, petitioner again requests that the Office withdraw the holding of abandonment due to non-receipt of the Notice mailed on 6 October, 2005. In support of the allegation that the final Office action was never received, petitioner has submitted a copy of a docket record and provided a statement by Neil McFater that that a search of the file and docket records indicate that no Office action was received.

A review of the record indicates no irregularity in the mailing of the Office communication mailed on 6 October, 2005, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and

attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1] For example, if a three month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action.

The renewed petition is accompanied by a statement by petitioner's counsel, Douglas S. Johnson, attesting to the fact that a search of the above-identified file and docket records made by counsel's law partner, Neil McFater, indicates that the Notice of Allowance was not received. Additionally, a copy of the docket report is enclosed with the petition.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, there is no abandonment in fact, and the holding of abandonment is withdrawn.

The petition is **GRANTED.**

The application is being referred to Technology Center Art Unit 2876 for remailing of the Notice of Allowance and Fee(s) Due and Notice of Allowability. The period for reply will be reset from the mailing date thereof.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[1] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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11TH FLOOR
WASHINGTON, DC 20005-3500

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OFFICE OF PETITIONS

In re Application of :
Hajime Kimura :
Application No. 10/244,489 : ON PETITION
Filed: September 17, 2002 :
Attorney Docket No. 12732-117001 :

This is a decision on the petition, filed September 29, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 2821 for further processing of the request for continued examination under 37 CFR 1.114 filed September 29, 2004.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Patent No. : 7045796 B2
Ser. No. : 10/244,509
Inventor(s) : KARASAWA, HIROYUKI
Issued : 05/16/06
Title : **IMAGING DEVICE WITH REFLECTING LIGHT GUIDE**
Docket No. : **Q70258**

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: (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.

Lamonte M. Newsome

Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

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

LMN

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1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

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APR 15 2005

OFFICE OF PETITIONS

In re Application of :
Nobuya Okayama et al :
Application No. 10/244,515 : ON PETITION
Filed: September 17, 2002 :
Attorney Docket No. 500.38030CX1 :

This is a decision on the petition, filed April 14, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 9, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3621 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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

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AUG 26 2009

OFFICE OF PETITIONS

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

In re Application of :
Hongou :
Application No. 10/244,517 : ON APPLICATION FOR
Filed: September 17, 2002 : PATENT TERM ADJUSTMENT
Attorney Docket No. :
03560.003108. :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705(B) filed February 13, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand four hundred twenty-five (1,425) days, not nine hundred forty-five (945) 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 cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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 specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK NY 10104-3800

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MAR 15 2010

In re Patent No. 7,596,166 :
Masayuki Hongou : DECISION ON REQUEST FOR
Issue Date: September 29, 2009 : RECONSIDERATION OF
Application No. 10/244,517 : PATENT TERM ADJUSTMENT
Filed: September 17, 2002 : AND NOTICE OF INTENT
Attorney Docket No. : TO ISSUE CERTIFICATE OF
03560.003108 : CORRECTION
Title: INTEGRATED CIRCUIT :
DEVICE INCLUDING A SPECTRUM :
SPREAD CLOCK GENERATOR, METHOD :
FOR CONTROLLING THE DEVICE, AND :
INK-JET RECORDING APPARATUS :
INCLUDING THE DEVICE :

This is a decision on the petition filed on October 22, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand five hundred forty-one (1541) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand five hundred forty-one (1541) days is **GRANTED.**

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand five hundred forty-one (1541)** days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

/Kery A. Fries/

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,596,166 B2

DATED : **September 29, 2009** **DRAFT**

INVENTOR(S) : Masayuki Hongou.

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 1053 days

Delete the phrase "by 1053 days" and insert – by 1541 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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STEPTOE & JOHNSON
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20036

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DEC 15 2005

OFFICE OF PETITIONS

In re Application of :
Vikram C. Sundar et al :
Application No. 10/244,545 : ON PETITION
Filed: September 17, 2002 :
Attorney Docket No. 01997-300001/10/244,545 :

This is a decision on the petition filed December 7, 2005, which is being treated under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 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 Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2874 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).

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Paper No. 14

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

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MAR 2 2 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Shiho Okuno et al :
Application No. 10/244,550 :
Filed: September 17, 2002 :
Attorney Docket No. 228382US2TTCRD :

This is a decision on the petition, filed March 19, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1775 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

SPE: C. Friedman

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/4/07

TO SPE OF : ART UNIT 3632

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/244,552 Patent No.: 6766997

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: _____

Carl D. Friedman
Supervisory Patent Examiner
Group 2600
SPE

3652
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

#7

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Foley and Lardner
Suite 500
3000K Street NW
Washington, DC 20007

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SEP 2 9 2004

TECHNOLOGY CENTER 3600

In re Application of :
Takeshi Ishizu et al. :
Application No. 10/244,560 :
Filed: September 17, 2002 :
For: VEHICLE DRIVING FORCE CONTROL :

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicants' petition to withdrawal the holding of abandonment filed on August 18, 2004.

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

☒ Postcard receipt being dated March 31, 2004.

☐ USPTO return facsimile receipt dated _____, which references the application by serial number and the amendment that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____. and supported by a statement under 37 C.F.R. 1.8(b)(3).

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

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

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

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

SNM/vdb: 9/21/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-145

James Remenick
POWELL GOLDSTEIN, LLP
Intellectual Property Group
901 New York Avenue, NW
Third Floor
Washington, DC 20001-4413

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JUN 14 2005
TECHNOLOGY CENTER 3600

In re application of
Paul J. Glatkowski et al.
Application No. 10/244,589 : DECISION ON REQUEST
Filed: September 17, 2002 : FOR WITHDRAWAL OF
For: ESD COATINGS FOR USE WITH SPACECRAFT : ATTORNEY

This is a decision on the request filed on January 31, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application, and also on the change of correspondence address filed February 25, 2005.

The request is **NOT APPROVED.**

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with Item B). While a reason may be provided by referencing a specific portion of 37 CFR 10.40, the reason must deal with actions by the client. In this case, there is nothing in the file record that indicates the existence of an assignee or that the assignee is the client. Absent a 3.73(b) statement, the "client" referred to in 37 CFR 10.40 is seen as being those individuals who conferred power upon the attorneys, in this case the inventors.

The change in correspondence address of February 25, 2005 is signed by James Remenick who has Power of Attorney and for this reason the correspondence address has been changed. The paper also asks that the withdrawal of January 31, 2005 be disregarded. Because the withdrawal request was signed by a different attorney having power, (in this case Wayne Jaeschke) the request to disregard will not be accepted. Any Attorney of record has the right to request withdrawal.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(571) 272-6611

SNM/pav: 05/31/05

CC: MORRISON & FOERSTER LLP
1650 Tysons Boulevard
Suite 300
McLean, VA 22102

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P.O. Box 1450
Alexandria, VA 22313-1450
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Kevin R. Spivak
Morrison & Foerster LLP
Suite 300
1650 Tysons Boulevard
McLean, VA 22102

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SEP 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Norbet Huffschmind	:	
Application No. 10/244,602	:	DECISION ON PETITION
Filed: September 17, 2002	:	TO WITHDRAW
Attorney Docket No. 449122041200	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 17, 2007.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on September 11, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Bell, Boyd & Lloyd, LLP**
P.O. Box 1135
Chicago, IL 60690

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080307

DATE : March 07, 2008

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction on Patent No.: 7145859

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

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

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

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

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

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

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

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

Comments:

The requested correction to claim 10 of the patent (allowed claim 27), column 13, line 42, "claim 8," to "claim 7,", is not approved. Claim 27 (now claim 10) as allowed was dependent on claim 24 (now claim 8) and not claim 23 (now claim 7). Hence, the scope of the claim would be changed.

SPE: /Wayne Young/ Art Unit 2627

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NOV 0 9 2005

TECHNOLOGY CENTER 3600

STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA VA 22314

In re Application of :
Francis Arnault :
Application No. 10/244,613 :
Filed: September 17, 2002 :
For: METHOD OF MANUFACTURING A VERTICAL SCAFFOLDING ELEMENT, AND ELEMENT THUS OBTAINED :

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdrawal the holding of abandonment filed on September 01, 2005.

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

☒ Postcard receipt date stamped by OIPE on May 27, 2004.

☐ USPTO receipt dated _____, which references the application by serial number and the amendment that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____. and supported by a statement under 37 C.F.R. 1.8(b)(3).

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

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

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

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

KJD/rjc/10/13/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

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JUN 04 2007

MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA VA 22182-3817

In re Application of:
ISHIYAMA, TOMOKAZU et al
Serial No. 10/244,658
Filed: Sep. 17, 2002
Docket: 20045
Title:
SEAT HEATER AND A MANUFACTURING METHOD OF SEAT HEATER

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed Apr. 4, 2006 under 37 CFR 1.181 requesting reinstatement of appeal.

The petition is **Dismissed as moot.**

The examiner was instructed to construe the petition as a request for reconsideration. In finding petitioner's points of argument persuasive, the requested relief is granted to proceed with Appeal Conference in accordance with MPEP 1203. In view of the examiner's action, decision on the petition is moot and is dismissed.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED AS MOOT.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

MCDERMOTT, WILL & EMERY
600 13TH STREET
WASHINGTON, DC 20005

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JAN 14 2003

OFFICE OF PETITIONS

In re Application of :
Yasumoto, et al. :
Application No. 10/244,665 : ON PETITION
Filed: September 17, 2002 :
Attorney Docket No. 43888-208 :

This is a decision on the papers styled "Response To Notice of Omitted Items in a Nonprovisional Application," filed on December 9, 2002, which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of September 17, 2001, including pages 6, 8, 9, 12, 14, 15, 16, 17, 19 and 20 of the specification.

The application was filed on September 17, 2002. However, on October 8, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Omitted Items In A Nonprovisional Application" that stated the application had been accorded a filing date, but pages 6, 8, 9, 12, 14, 15, 16, 17, 19 and 20 of the specification appear to have been omitted.

In response, on December 9, 2002, the instant petition and a copy of pages 6, 8, 9, 12, 14, 15, 16, 17, 19 and 20 of the specification were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of twenty-two (22) pages of specification, on September 17, 2002. A review of the application file indicates the presence of twelve (12) pages of specification. It is assumed that pages 6, 8, 9, 12, 14, 15, 16, 17, 19 and 20 of the specification were misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition fee submitted on December 9, 2002 will be refunded to deposit account no. 50-0417.

This application will be returned to OIPE for further processing with a filing date of September 17, 2002, using the copy of pages 6, 8, 9, 12, 14, 15, 16, 17, 19 and 20 of the specification, supplied on December 9, 2002.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Edward Tannouse at (703) 306-9200.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OCT 13 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of :
Masato Sannoh, et al. :
Application No. 10/244,670 : DECISION ON PETITION TO
Filed: September 17, 2002 : MAKE SPECIAL
For: **IMAGE PICKUP DEVICE, AUTOMATIC FOCUSING METHOD, AUTOMATIC EXPOSURE METHOD, ELECTRONIC FLASH CONTROL METHOD AND COMPUTER PROGRAM**

This is a decision on the petition filed September 27, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The 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.

Doris To
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAY 24 2007

OFFICE OF PETITIONS

In re Application of :
Masato Sannoh et al :
Application No. 10/244,670 : DECISION GRANTING PETITION
Filed: September 17, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 228303US2 :

This is a decision on the petition, filed May 23, 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 April 26, 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 2622 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the amendment under 37 CFR 1.48(a) to correct the inventorship in this application.

Frances Hicks
Petitions Examiner
Office of Petitions

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---

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

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MICHAELSON & ASSOCIATES
P.O. BOX 8489
RED BANK NJ 07701-8489

MAILED

JAN 29 2009

OFFICE OF PETITIONS

In re Application of :
Johan Richard Schmidt, et. al. :
Application No. 10/244,689 : DECISION ON PETITION
Filed: September 16, 2002 :
Attorney Docket No. PTT-147/RCE(402738US) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Office Action of October 12, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is January 13, 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 $1620; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3623 for appropriate action by the Examiner in the normal course of business on the reply received.

Brian W. Brown
Petitions Examiner
Office of Petitions

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VP

JUL 20 2004

PAPER NO. __

In re Application of
Suzanne Jaffe Stillman
Serial No: 10/244,699
Filed: September 16, 2002
For: FILTER-WATER WITH ADDED VALUE DELIVERY SYSTEMS/ELEMENTS/ADDITIVES ADDRESSING SPECIFIC DIETARY USES AND/OR MEDICAL USES FOR HUMANS AND ANIMALS

PETITION UNDER
M.P.E.P. 708.02 III

This is in response to the petition filed September 9, 2003 requesting that the above-identified application be granted Special Status under Section 708.02 III 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.**

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

PATTON BOGGS LLP
2550 M Street, N.W.
Washington, D.C. 20037

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PATTON BOGGS LLP
2550 M STREET, NW
WASHINGTON, D.C. 20037-1350

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FEB 09 2006

OFFICE OF PETITIONS

In re Application of :
Suzanne Jaffe Stillman :
Application No. 10/244,699 : DECISION ON PETITION
Filed: September 16, 2002 : UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 26007.00120 : UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed June 11, 2005, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120, 365(c) and 119(e) for the benefit of the prior-filed international and provisional applications, set forth in the petition.

The petition is DISMISSED.

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

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

The instant petition fails to comply with item (1) above.

The amendment set forth in the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i) or 37 CFR 1.78(a)(5)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent

section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

In view of the above, the amendment to add a priority claim to the first line of the specification, which is physically embedded in the instant petition, is not acceptable. Accordingly, a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), must be submitted.

Please note, 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.

Furthermore, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted.

A courtesy copy of this decision 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.

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

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

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

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

Any inquiries concerning this decision may be directed to Petitions Attorney Edward Tannouse at (571) 272-3228.

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

cc.
STEFAN J. KIRCHANSKI
LINER YANKELEVITZ SUNSHINE AND REGENSTREIF
1100 GLENDON AVENUE, 14TH FLOOR
LOS ANGELES, CA 90024

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WASHINGTON, D.C. 20037-1350

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JUL 13 2006

OFFICE OF PETITIONS

In re Application of :
Suzanne Jaffe Stillman :
Application No. 10/244,699 : DECISION ON PETITION
Filed: September 16, 2002 : UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 26007.00120 : UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 14, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120, 365(c) and 119(e) for the benefit of the prior-filed applications, set forth in the concurrently filed amendment.

The petition is DISMISSED.

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

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

The instant petition fails to comply with item (1) above.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation,

divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) since the amendment fails to state the relationship between application No. PCT/US01/05630 and 09/510,400. For this reason, the amendment is unacceptable.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 or 37 CFR 1.76(b)(5)) to correct the above matter is required.

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

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

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

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

Any inquiries concerning this decision may be directed to Petitions Attorney Edward Tannouse at (571) 272-3228.

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

cc.
STEFAN J. KIRCHANSKI
LINER YANKELEVITZ SUNSHINE AND REGENSTREIF
1100 GLENDON AVENUE, 14TH FLOOR
LOS ANGELES, CA 90024

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In re Application of :
Suzanne Jaffe Stillman :
Application No. 10/244,699 :
Filed: September 16, 2002 :
Attorney Docket No. 26007.00120 :

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3) AND
UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed July 20, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are granted.

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional 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 applications is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).

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

submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should 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.

This application is being forwarded to Technology Center Art Unit 1764 for appropriate action on the amendment submitted July 20, 2006, 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 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.

Any questions concerning this matter may be directed to Petitions Attorney Edward Tannouse at (571) 272-3228. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

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

ATTACHMENT : Corrected Filing Receipt

cc.
STEFAN J. KIRCHANSKI
LINER YANKELEVITZ SUNSHINE AND REGENSTREIF
1100 GLENDON AVENUE, 14TH FLOOR
LOS ANGELES, CA 90024

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/244,711	11/27/2002	Chenhuei J. Chiang	SVL920020060US1	5043

45112 7590 03/17/2008

Kunzler & McKenzie
8 EAST BROADWAY
SUITE 600
SALT LAKE CITY, UT 84111

EXAMINER	
HUYNH, CONG LAC T	

ART UNIT	PAPER NUMBER
2178	

MAIL DATE	DELIVERY MODE
03/17/2008	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.

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Alexandria, VA 22313-1450
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David McKenzie
KUNZLER & McKENZIE
8 East Broadway
Suite 600
Salt Lake City, UT 84111

In re Application of:
Chenhuei CHIANG et al.
Application No. 10/244,711
Filed: November 27, 2002
For: SYSTEM AND METHOD FOR RENDERING MFS XML DOCUMENTS FOR DISPLAY

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

This is a decision on the petition, filed on 30 November 2006, under 37 CFR § 1.181 to withdraw/vacate the Communication Re: Appeal (PTOL-461) mailed on 22 November 2006.

The petition is **GRANTED**, and the Request for Continued Examination (RCE) filed on 02 November 2007 is **ACCEPTED and ENTERED**.

REVALENT APPLICATION HISTORY

June 22, 2006	Final Office was mailed rejecting all pending claims 8, 10, 11, 13 and 14.
June 27, 2006	Notice of Appeal and Appeal Brief were filed to appeal the Final Office of June 22, 2006.
August 7, 2006	Examiner's Answer was mailed.
August 16, 2006	Reply Brief was filed.
September 19, 2006	Notification of Non-Compliant Appeal Brief was mailed to inform applicant that the Brief filed June 27, 2006 does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
September 21, 2006	Response to Notice of Non-Compliant Brief was filed arguing that the Appeal Brief filed June 27, 2006 is not defective and pointing out there are four separate headings in Section 7 labeled "Argument".

September 28, 2006	The examiner of record considered and accepted the reply brief (i.e. response to Notice of Non-Compliant Brief) filed September 21, 2006 and informed applicant that the application has been forwarded to the Board of Patent Appeals and Interferences for decision on the appeal.
November 22, 2006	Notice of dismissal of the appeal and holding the application in abandonment was mailed.
November 24, 2006	Board of Patent Appeals and Interferences Docketing Notice was mailed.
November 30, 2006	Petition to withdraw "Communication Re: Appeal" under 37 C.F.R. § 1.181 was filed.
March 12, 2007	Communication from the Board was mailed to inform applicant that the Appeal Docketing Notice mailed November 24, 2006 was vacated in view of the Notice of dismissal of the appeal mailed November 22, 2006.
March 13, 2007	Order returning undocketed appeal to examiner was issued.
November 02, 2007	Request for Continued Examination was filed and Information Disclosure Statement (IDS) was submitted as a submission.
February 11, 2008	Revocation of Power of Attorney with New Power of Attorney was filed.

RULES AND PROCEDURES

The relevant portions of the Rules and Procedures are reproduced below. Emphasis is added to draw attention to the critical phrases.

37 CFR § 41.37(vii) states:

> The contentions of appellant with respect to each ground of rejection presented for review in paragraph (c)(1)(vi) of this section, and the basis therefor, with citations of the statutes, regulations, authorities, and parts of the record relied on. **Any arguments or authorities not included in the brief or a reply brief filed pursuant to § 41.41 will be refused consideration by the Board**, unless good cause is shown. Each ground of rejection must be treated under a separate heading. For each ground of rejection applying to two or more claims, the claims may be argued separately or as a group. When multiple claims subject to the same ground of rejection are argued as a group by appellant, the Board may select a single claim from the group of claims that are argued together to decide the appeal with respect to the group of claims as to the ground of rejection on the basis of the selected claim alone. **Notwithstanding any other provision of this paragraph, the failure of appellant to separately argue claims which appellant has grouped together shall constitute a waiver of any argument that the Board must**

consider the patentability of any grouped claim separately. Any claim argued separately should be placed under a subheading identifying the claim by number. Claims argued as a group should be placed under a subheading identifying the claims by number. A statement which merely points out what a claim recites will not be considered an argument for separate patentability of the claim.

MPEP § 706.07(h)(VI) states, in part:

> If reply to a final Office action is outstanding and the submission is not fully responsive to the final Office action, then it must be a bona fide attempt to provide a complete reply to the final Office action in order for the RCE to toll the period for reply.
>
> If the submission is not a bona fide attempt to provide a complete reply, the RCE should be treated as an improper RCE. Thus, a "Notice of Improper Request for Continued Examination (RCE)," Form PTO-2051, should be prepared by the technical support personnel and mailed to the applicant indicating that the request was not accompanied by a submission complying with the requirements of 37 CFR 1.111 (see 37 CFR 1.114(c)). The RCE will not toll the period for reply and the application will be abandoned after the expiration of the statutory period for reply if no submission complying with 37 CFR 1.111 is filed. For example, **if a reply to a final Office action is outstanding and the submission only includes an information disclosure statement (IDS), the submission will not be considered a bona fide attempt to provide a complete reply to the final Office action and the period for reply will not be tolled**...

MPEP § 706.07(h)(X) states, in part:

> If an applicant files an RCE under 37 CFR 1.114 after the filing of a Notice of Appeal to the Board of Patent Appeals and Interferences (Board), **but prior to a decision on the appeal, it will be treated as a request to withdraw the appeal and to reopen prosecution of the application before the examiner, regardless of whether the RCE is proper or improper**. See 37 CFR 1.114(d). The Office will withdraw the appeal upon the filing of an RCE...

MPEP § 706.07(h)(X)(B) states, in part:

> **The appeal will be withdrawn even if the RCE is improper**. If an RCE is filed in an application after appeal to the Board but the request does not include the fee required by 37 CFR 1.17(e) or the submission required by 37 CFR 1.114, or both, the examiner should treat the request as an improper RCE and withdraw the appeal pursuant to 37 CFR 1.114(d). **If the submission is not considered to be a bona fide attempt to provide a complete reply to the last outstanding Office action (e.g., an IDS only), the submission will be treated as an improper submission or no submission at all under 37 CFR 1.114(c) (thus the request is an improper RCE)**. See subsection VI...

OPINION

A review of the application history from the Final Office action mailing date to the mailing date of the Notice of dismissal of the appeal, it revolves that the Notice of dismissal of the appeal was mailed in view of the applicant's failure to provide an amended appeal brief in response to the Notice of Non-Compliant Brief mailed September 19, 2006. It is pointed out that **appellant is required to file an amended brief in response to the Notice of Non-Compliant Appeal Brief** or file a petition under 37 CFR § 1.181 if appellant disagrees with the holding of noncompliance. As in this application, the petition, filed November 30, 2006, under 37 CFR § 1.181 has been treated as a petition to review the Notice of Non-Compliant Appeal Brief.

Further review of the Appeal Brief filed June 27, 2006 indicates that appellant provided arguments only to the sole independent claim 8. Pursuant to the 37 CFR § 41.37(vii), the failure of appellant to separately argue claims shall constitute a waiver of any argument; the Board may only consider the patentability of the sole independent claim 8, and all dependent claims will stand and fall together with the sole independent. Thus, the Notice of Non-Compliant Appeal Brief should not be mailed for such a minor error.

Pursuant to MPEP § 706.07(h)(X) and the timely filing an RCE with the fee set forth in 37 CFR § 1.17(e), the appeal proceeding is hereby dismissed and the application is returned to the previous FINAL status (i.e., prior to filing of the Notice of Appeal).

Pursuant to MPEP § 706.07(h)(VI) and MPEP § 706.07(h)(X)(B), the RCE of November 02, 2007 is improper since there was no reply to the outstanding Final Office action and an IDS was submitted as a submission.

CONCLUSION

Accordingly, the petition filed November 30, 2006 is **GRANTED**. A delay to render a decision on the petition is hereby regretted. While the Office attempts to promptly respond to a petition, there are those instances where delays do occur, as in the instant application. Thus, the Notice of Non-Compliance of Appeal Brief mailed September 19, 2006 is hereby withdrawn and the Notice of dismissal of the appeal and holding the application in abandonment mailed November 22, 2006 is vacated in view of the withdrawal of the Notice of Non-Compliance of Appeal Brief.

The application is being forwarded to the Technology Center support staff for processing and mailing a Notice of Improper RCE filing.

If the petitioner desires further review of this Decision, applicant should consider filing a Request for Reconsideration within 2 months of the mailing date of this Decision. Otherwise, the petitioner may wish to file a petition to revive under 37 CFR § 1.137(b). Note that a reply to the Final Office action of June 22, 2006 is required at the time a petition under 37 CFR § 1.137(b) is filing.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (571) 272-3613.

Wendy R. Garber, Director
Technology Center 2100
Computer Architecture, Software, and
Information Security

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KUNZLER & MCKENZIE
8 EAST BROADWAY
SUITE 600
SALT LAKE CITY UT 84111

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JUN 26 2008

OFFICE OF PETITIONS

In re Application of :
Chiang et al. :
Application Number: 10/244,711 : ON PETITION
Filing Date: 11/27/2002 :
Attorney Docket Number: SVL920020060US1 :

This is a decision on the petition under 37 CFR 1.137(b) filed on May 9, 2008.

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 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 September 22, 2006.[1]

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

[1] A Notice of Appeal was filed on June 27, 2006, followed by an Appeal Brief on June 27, 2006. An improper RCE was filed on November 2, 2007, which vacated the Notice of Appeal, as noted in the decision on petition mailed on March 17, 2008.

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

This application is being referred to Technology Center AU 2178 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.

D Wood

Douglas Wood
Senior Petitions Attorney
Office of Petitions

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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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JUN 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Moo Yeol Park et al :
Application No. 10/244,734 : ON PETITION
Filed: September 17, 2002 :
Attorney Docket No. 041501-5522 :

This is a decision on the petition, filed May 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 May 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]

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 2871 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

cc:
HELLER EHRMAN
1717 RHODE ISLAND AVENUE, NW
WASHINGTON DC 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

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KEATING & BENNETT LLP
Suite 312
10400 Eaton Place
Fairfax, VA 22030

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MAR 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Takaomi Toi, et al. :
Application No. 10/244,759 : ON PETITION
Filed: September 17, 2002 :
Attorney Docket No. 36856.935 :

This is a decision on the petition, filed February 28, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 21, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2832 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

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PATENT COUNSEL
United States Surgical,A DIVISION OF
Tyco Healthcare Group LP
150 Glover Avenue
Norwalk CT 06856

COPY MAILED

JUN 29 2006

OFFICE OF PETITIONS

In re Application of :
Jervis :
Application No. 10/244,765 : ON PETITION
Filed: September 16, 2002 :
Attorney Docket No. 2570 CON2 (203-3470 CON2) :
For: PROSTHESIS AND METHOD FOR DEPLOYMENT WITHIN A BODY LUMEN

This is a decision on the petition under 37 CFR 1.181, filed May 5, 2005 (certificate of mailing date May 2, 2005) to withdraw the holding of abandonment.

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

The Office contended that the above-identified application became abandoned for failure to submit a reply to the July 19, 2004 final Office action, which set a three month extendable period for reply. No extensions of time or reply being received, the Office contended that this application became abandoned on October 20, 2004. A Notice of Abandonment was mailed on April 5, 2005.

Petitioner alleges that the July 19, 2004 final Office action was not received at the correspondence address of record.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioner has submitted a copy of the docket record where the requirement would have been entered had the July 19, 2004 final Office action been received. In addition, practitioner referenced the record in the petition and stated that a review of the application's file for the July 19, 2004 final Office action was fruitless.

Petitioner has established non-receipt. The petition is **granted**, the Notice of Abandonment is vacated, and the holding of abandonment is withdrawn.

After the mailing of this decision, the application will be returned to Technology Center AU 3738 for the re-mailing of the July 19, 2004 final Office action with a new period set for reply.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATENT COUNSEL
UNITED STATES SURGICAL
A DIVISION OF TYCO HEALTHCARE GROUP LP
150 GLOVER AVENUE
NORWALK, CT 06856

COPY MAILED

MAR 16 2007

OFFICE OF PETITIONS

In re Application of :
James E. Jervis :
Application No. 10/244,765 : DECISION ON PETITION
Filed: September 16, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2570 CON2 (203-3470 CON2) :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 21, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 08/627,667, filed April 1, 1996, as set forth in the amendment filed March 24, 2004.

The petition is **GRANTED**.

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

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

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 3738 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the above- noted, prior-filed application.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/244,765	09/16/2002	3738	830	2570 CON2 (203-3470 CON2)	1	1

CONFIRMATION NO. 5709

CORRECTED FILING RECEIPT

OC000000022925774

PATENT COUNSEL
United States Surgical,A DIVISION OF
Tyco Healthcare Group LP
150 Glover Avenue
Norwalk, CT 06856

Date Mailed: 03/15/2007

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

Applicant(s)

James E. Jervis, Atherton, CA;

Power of Attorney:

Roland Smoot--18718
Samuel Stone--19297
Robert Taylor Jr--19848
James Geriak--20233
Conrad Solum Jr--20467
Douglas Olson--22798
Robert Lyon--24171
Robert Weiss--24939
J McCarthy--25119
Richard Lyon Jr--26300

Domestic Priority data as claimed by applicant

This application is a CON of 09/411,517 10/04/1999 PAT 6,451,025
which is a CON of 08/627,667 04/01/1996 PAT 6,533,805

Foreign Applications

If Required, Foreign Filing License Granted: 10/15/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/244,765

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Prosthesis and method for deployment within a body lumen

Preliminary Class

623

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

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

NOT GRANTED

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

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Paper No. 9

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

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MAY 28 2004

OFFICE OF PETITIONS

In re Application of	:	
Zeissler, et al.	:	
Application No. 10/244,794	:	ON PETITION
Filed: September 16, 2002	:	
Attorney Docket No. LAMA119735	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Office letter mailed December 4, 2003, which set a one (1) month period to reply. Accordingly, this application became abandoned on January 5, 2004. A Notice of Abandonment was mailed on March 30, 2004.

The file is being forwarded to Technology Center 3600 for review of the amendment filed May 17, 2004.

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

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

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BOSTON MA 02110

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MAY 2 5 2004

OFFICE OF PETITIONS

In re Application of :
Ganesh Venkataraman et al :
Application No. 10/244,805 : DECISION ON PETITION
Filed: September 16, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 14131-013001/MIM 100 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed January 20, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/389,000, filed June 12, 2002.

The petition is **Granted**.

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

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

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and

(3) the reference to the prior-filed provisional application supplied in an application data sheet (ADS)(37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. *See* 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5)(iii). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on September 16, 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/389,000, which was filed on June 12, 2002, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/389,000 is granted.

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

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

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

The examiner of Technology Center AU 1631 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. §119(e) to prior-filed provisional Application No. 60/389,000, filed June 12, 2002.

Karen Creasy

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

ATTACHMENT: Corrected Filing Receipt

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LOWRIE, LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE, MA 02142

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OFFICE OF PETITIONS

In re Application of :
Ganesh Venkataraman et al :
Application No. 10/244,805 : DECISION ON PETITION
Filed: September 16, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. M2050-700910 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 10, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed 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) 272-3208. 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 1656 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.

Karen Creasy
Petition Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/244,805	09/16/2002	1656	940	M2050-700910	65	3

CONFIRMATION NO. 5235

CORRECTED FILING RECEIPT

37462
LOWRIE, LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE, MA 02142

OC00000033778141

Date Mailed: 12/24/2008

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

Applicant(s)

Ganesh Venkataraman, Bedford, MA;
Ram Sasisekharan, Cambridge, MA;
Zachary Shriver, Boston, MA;

Power of Attorney: The patent practitioners associated with Customer Number 37462

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/322,233 09/14/2001
and claims benefit of 60/389,000 06/12/2002

Foreign Applications

If Required, Foreign Filing License Granted: 10/18/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/244,805**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Methods of making glycomolecules with enhanced activities and uses thereof

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

#6
5-21-03

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UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
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TECHNOLOGY CENTER 2100

Paper No. 6

John W. Ryan
WILMER CUTLER & PICKERING
2445 M Street, N.W.
Washington, DC 20037

In re Application of:	)	
Pierre Sauvage et al.	)	
Application No. 10/244,844	)	**DECISION ON REQUEST FOR**
Filed: September 17, 2002	)	**WITHDRAWAL AS ATTORNEY**
For: METHOD AND APPARATUS FOR MONITORING THE ACTIVITY OF A 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 filed March 25, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: HEWLET-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

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

CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Timothy McGlinch	: DECISION ON REQUEST FOR
Patent Number	: 7625365	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/244,870	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/17/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1291** 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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MCANDREWS HELD & MALLOY, LTD.
34 TH FLOOR
500 W. MADISON STREET
CHICAGO, IL 60661

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JAN 12 2007

OFFICE OF PETITIONS

In re Application of :
Jin Jun Zhang :
Application No. 10/244,878 : ON PETITION
Filed: September 17, 2002 :
Attorney Docket No. 13763US01

This is a decision on the petition filed, January 10, 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 4, 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1615 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 5

RICHARD J. POLLEY
KLARQUIST SPARKMAN, LLP
ONE WORLD TRADE CENTER, SUITE 1600
121 S.W. SALMON STREET
PORTLAND, OREGON 97204

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DEC 0 2 2002

OFFICE OF PETITIONS

In re Application of :
Marc Poirier et al :
Application No. 10/244,902 : NOTICE
Filed: September 16, 2002 :
Attorney Docket No. 269/134 :

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

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

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

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

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

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

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

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Mano D. Judd	: DECISION ON REQUEST FOR
Patent Number	: 7623868	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/244,912	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2198** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TAROLLI SUNDHEIM COVELL & TUMMINO LLP
526 SUPERIOR AVENUE, SUITE 1111
CLEVELAND, OH 44114

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DEC 16 2005

OFFICE OF PETITIONS

In re Application of :
Kurt F. Fischer :
Application No. 10/244,933 : DECISION GRANTING PETITION
Filed: September 16, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. TRW(AP)6238 :

This is a decision on the petition, filed December 7, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 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) 272-3218.

This matter is being referred to Technology Center AU 3616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (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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Mailed: APR 18 2005

dss
Paper Number _____

In re application of :
W. Smith et al. : DECISION ON
Serial No. 10/244,937 : PETITION
Filed: September 16, 2002 :
For: NON-AQUEOUS ELECTROLYTES
FOR STORAGE DEVICES :

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a), filed September 14, 2004. The petition requests that the abandonment ,for failure to timely pay the issue fee(filed concurrently herewith) due September 03, 2003 be withdrawn since the applicants did timely file a reply on September 14, 2004 as due to United States Postal Service Interruption and Emergency as result of Hurricane Frances, affecting the Tampa Bay/Clearwater area on September 02-03,2004.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's reply was properly filed on September 14, 2004 as evidenced by the interruption in services due to Hurricane Frances, see Official Gazette Notice of 19 October 2004 as described under 35 USC 21(a) and 37 CFR 1.10(i)

The application shall be forwarded for processing of the issue fee.
The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

John Lezdey & Associates
4625 East Bay Drive
Suite 302
Clearwater, FL 33764

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MAY 19 2010

OFFICE OF PETITIONS

SHELDON & MAK
9TH FLOOR
225 SOUTH LAKE AVENUE
PASADENA, CA 91101

In re Application of :
Feaver et al. :
Application No. 10/244,955 : ON PETITION
Filed: September 16, 2002 :
Attorney Docket No. 14247 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 30, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 25, 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 April 26, 2006. A Notice of Abandonment was mailed May 4, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on September 30, 2009, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

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 file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This application 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 number 11/747,741.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: JAMES A. OLIFF
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

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MICHAEL J. COLITZ, JR.
640 Douglas Avenue
DUNEDIN FL 34698

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MAY 12 2008

OFFICE OF PETITIONS

In re Application of :
MARK W. NAPIER :
Application No. 10/244,963 : DECISION ON PETITION
Filed: September 17, 2002 :
Attorney Docket No. PJ 03/01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before March 11, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed December 11, 2007. Accordingly, the date of abandonment of this application is December 12, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720, (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Ramesh Krishnamurthy at (571)272 - 4914.

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

for

David Bucci
Petitions Examiner
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)
6871216	2005-03-22	10244973	2002-09-16	60026-0053

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

◉ The assignee of record of the entire interest

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/BillWilliams/	Date (YYYY-MM-DD)	2010-04-20
Name	Bill Williams, Corporate Controller		
Enter Reel and Frame Number		Remove	
Reel Number	011759	Frame Number	0302
Enter Reel and Frame Number		Remove	
Reel Number	024218	Frame Number	0462
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these 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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In re Patent No. 6871216
Issue Date: March 22,2005
Application No. 10244973
Filed: September 16,2002
Attorney Docket No. 60026-0053

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

This is a decision on the electronic petition, filed April 20,2010 ,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 20,2010 . 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

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WASHINGTON, D.C. 20231
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HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

In re Application of
Frame et al.
Application No. 10/244,992
Filed: September 17, 2002
Attorney Docket No. COMP:0081–1/VAN
P99-2917
For: COMPUTER SYSTEM AND
CHASSIS

COPY MAILED

AUG 0 6 2004

OFFICE OF PETITIONS

In re Application of
Frame et al.
Application No. 10/470,617
Filed: December 2, 2003
For: COMPUTER SYSTEM AND
CHASSIS

: DECISION GRANTING PETITION
: AND
: ASSIGNMENT OF APPLICATION
: NUMBER

This is a decision on the paper filed by facsimile on June 25, 2004, which is being treated as a petition requesting that the continuation application be accorded a filing date of December 2, 2003, with the copy of the specification as part of the original disclosure. Application No. 10/244,992 was forwarded to the undersigned to resolve the issue of the filing date of the continuation application of application No. 10/244,992.

A review of application No. 10/244,992 reveals that the following papers were submitted on December 2, 2003: (1) a transmittal letter that included a request for a continuing application under 37 CFR 1.53(b) and an authorization to charge the filing fee to a deposit account; (2) a copy of the declaration under 37 CFR 1.63 of the prior application No. 10/244,992; (3) power of attorney by assignee with a copy of the assignment of the prior application No. 10/244,992; (4) ten sheets of drawings; (5) a paper labeled "Preliminary Amendment" which includes a section labeled "Amendments to the Specification" and a section labeled "Amendments to the Claims"; and (6) an information disclosure statement (IDS).

The transmittal letter filed on December 2, 2003, indicates that an application under 37 CFR 1.53(b) was being filed. The application papers were **not** in any way designated as a continued

prosecution application(CPA) filing under 37 CFR 1.53(d) and they were **not** designated as a Request for Continued Examination (RCE) filing under 37 CFR 1.114. The Office, however, mistakenly processed the application as an RCE under 37 CFR 1.114. Since the application was processed as an RCE, the prosecution of the prior application No. 10/244,992 was reopened. Thereafter, the declaration under 37 CFR 1.131 filed on April 7, 2004 was entered into the file of the prior application No. 10/244,992 and an Office action in response to the RCE was mailed in the prior application No. 10/244,992 on April 15, 2004. On May 6, 2004, a Notice of Allowance and Fee(s) Due and a Notice of Allowability that included an initialed copy of the information disclosure statement form were mailed in the prior application No. 10/244,992.

Since the transmittal letter clearly indicated that the application was being filed under 37 CFR 1.53(b), the application papers filed December 2, 2003, must be processed as an application under 37 CFR 1.53(b). Accordingly, the application papers filed on December 2, 2003 (including the transmittal letter, declaration under 37 CFR 1.63, power of attorney, ten sheets of drawings, and the paper labeled as "Preliminary Amendment", and the information disclosure statement), have been removed from the prior application No. 10/244,992 and have been assigned a new application number, application No. **10/470,617**. All further communications concerning the continuation application filed on December 2, 2003, should be directed to that application number.

The Office action mailed on April 15, 2004 and the Notice of Allowance and Fee(s) Due and the Notice of Allowability mailed on May 6, 2004, were sent in error and are hereby **vacated**. The Office action and notices will be retained in the prior application No. 10/244,992, but, they are of no effect because they were sent in error.

A review of the application papers filed December 2, 2003, also revealed that a specification appeared to have been omitted from the application papers. Accordingly, on June 25, 2004, applicants submitted by facsimile a paper that includes a copy of applicants' stamped postcard receipt acknowledging receipt in the Office on December 2, 2003, of "Parent Application; Parent Drawings; Request for Filing Continuation Application Under 37 CFR Section 1.53(b); Preliminary Amendment; Parent POA; Parent Assignment and Notice of Recordation of Assignment; Parent Declaration; IDS; PTO-1449" and a copy of the specification. As noted above, the paper submitted by facsimile on June 25, 2004, is being treated as a petition requesting that the continuation application be accorded a filing date of December 2, 2003, with the copy of the specification as part of the original disclosure.

Since no item corresponding to "Parent Application" is among the papers that are present in the application file, the postcard receipt is convincing that a specification (i.e., a copy of the specification from the parent application) was filed on December 2, 2003. Applicants, however, are strongly cautioned that when submitting a self-addressed stamped postcard each separate component should be specifically and properly itemized on the postcard and include the number of pages being submitted, e.g., the number of pages of specification (including written description,

claims and abstract), number of sheets of drawings, and number of pages of oath/declaration. If even one page of an item listed on a postcard is received and the number of pages is not specified on the postcard receipt, the postcard receipt will not serve as *prima facie* evidence of receipt of all of the pages of that item. See MPEP § 503.

The petition is **granted**. No petition fee is required.

After mailing of this Notice, the Office records will be corrected to show that the filing fees ($770.00 basic filing fee, $54.00 for 3 claims in excess of 20) paid on December 2, 2003, were paid in the continuation application No. 10/470,617, not in the prior application No. 10/244,992.

Application No. 10/244,992 is being returned to the Technology Center Art Unit 2835 for further processing.

The continuation application No. 10/470,617 is being forwarded to Initial Patent Examination Division for further processing as a continuation application under 37 CFR 1.53(b) with a filing date of **December 2, 2003**, using the application papers filed on that date and the copy of the specification supplied on June 25, 2004.

Telephone inquiries specific to this matter should be directed to the undersigned at (703)306-5586.

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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ROGER S. DYBVIG
22 GREEN STREET
DAYTON, OH 45402

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JUN 14 2004

OFFICE OF PETITIONS

In re Application of
Martin Brady et al
Application No. 10/245,011
Filed: September 17, 2002
Attorney Docket No. 0162ACON2

: 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 10, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/638,676, as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The instant pending application was filed on September 17, 2002, and was pending at the time of filing of the instant petition. A reference to the above-noted, 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).

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

is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the above-noted, prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, 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 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 corrected priority claim to the above-noted, prior-filed nonprovisional application, accompanies this decision on petition.

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

This matter is being referred to Technology Center Art Unit 3727 for appropriate action on the amendments filed April 26, 2004 and May 10, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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DW 06-03

Paper No. 7

BENJAMIN AARON ADLER
ADLER & ASSOCIATES
8011 CANDLE LANE
HOUSTON TX 77071

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JUN 20 2003

OFFICE OF PETITIONS

In re Application of :
Stout et al. :
Application No. 10/245,050 : ON PETITION
Filed: 17 September, 2002 :
Attorney Docket No. D6124 :

This is a decision on the petition under 37 CFR 1.182, filed on 9 June, 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. J. Timothy Stout

2. Binoy Appukuttan

A corrected filing receipt reflecting the correct order of the names of the inventors is attached.

This application is being forwarded to Technology Center 1600 for examination in due course.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

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Paper No. 6

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

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FEB 0 6 2003

OFFICE OF PETITIONS

In re Application of :
Silber, et al. :
Application No. 10/245,074 : DECISION ON PETITION
Filed: September 17, 2002 :
Attorney Docket No. 512425-2056.1 :

This is a decision on the "Petition Pursuant to 37 C.F.R. §§ 1.53(e) and 1.181 in Response to Notice of Omitted Item in a Nonprovisional Application," filed December 26, 2002 (certificate of mailing December 20, 2002).

Application papers in the above-identified application were filed on September 17, 2002. However, on October 22, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application," notifying applicants that the application papers had been accorded a filing date; however, pages 14 and 27 of the specification appeared to have been omitted from the application.

In reply, petitioner timely filed the instant petition. Petitioner requests that as it appears the omitted items were indeed deposited with the United States Patent and Trademark Office, the application was complete when filed. In support thereof, petitioner submits a copy of their application transmittal sheet. Petitioner further requests, in the alternative, should the evidence not be considered sufficient, that the PTO accept the application as deposited and allow applicants to enter the subject matter contained in these pages by preliminary amendment based on an incorporation by reference of the prior application. The petition includes a copy of the application transmittal, as well as, a copy of pages 14 and 27 as petitioner maintains they were filed on September 17, 2002.

Petitioner's arguments and evidence have been considered, but not found persuasive that pages 14 and 27 were among the papers deposited on September 27, 2002.

Papers not present in the USPTO on the date of deposit will not be considered a part of the original application disclosure. The application file is the Official record of what was received in the Office in an application. A review of the instant application file reveals that pages 14 and 27 of the specification were not present among the papers filed on September 17, 2002, as they are not present in the application file.

Petitioner's evidence does not overcome this conclusion. An application transmittal does not serve as evidence of the items being filed in an application, as the Office does not review the transmittal to verify the papers received. For such a purpose, applicants are advised that an itemized postcard properly identifying the items being filed should be submitted with the application. See MPEP 503.

Accordingly, the petition is **DISMISSED**.

However, petitioner may enter pages 14 and 27 by preliminary amendment. MPEP 201.06(c) states that:

> If a continuation or divisional application as originally filed is entitled to a filing date despite the omission of a portion of the prior application(s), applicant will be permitted to add the omitted material by way of an amendment provided a statement was included in the application as originally filed that incorporates by reference the prior application(s). If the application as originally filed includes a proper incorporation by reference of the prior application(s), an omitted specification page(s) and/or drawing figure(s) identified in a "Notice of Omitted Item(s)" may be added by amendment provided the omitted item(s) contains only subject matter in common with such prior application(s). In such case, applicant need not respond to the "Notice of Omitted Item(s)." Applicant should submit the amendment adding the omitted material prior to the first Office action to avoid delays in the prosecution of the application. See MPEP § 601.01(d) and § 601.01(g).

A review of the application transmittal reveals that the entire disclosure of prior Application No. 09/799,256 was incorporated by reference into the instant application. Accordingly, the preliminary amendment filed on petition will be considered by the examiner in due course.

The application is being returned to the Office of Initial Patent Examination for completion of pre-examination processing, with the presently accorded filing date of September 17, 2002, using the papers received in the Office on that date.

Telephone inquiries related to this decision may be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Patricia Faison-Ball

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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MAR 26 2009

OFFICE OF PETITIONS

In re Application of
Gordon L. Stuber, et al.
Application No. 10/245,090
Filed: September 17, 2002
Attorney Docket No. 088245-6145

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

This 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 Terri Williams at (571) 272-2991.

Chris Bottorff
Petitions Examiner
Office of Petitions

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DUNLAP CODDING & ROGERS, P.C.
P.O. BOX 16370
OKLAHOMA CITY, OK 73113

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OFFICE OF PETITIONS

In re Application of :
Kenneth E. Miller :
Application No. 10/245,098 : ON PETITION
Filed: September 13, 2002 :
Attorney Docket No. 5820.622

This is a decision on the petition filed, July 26, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 8, 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1655 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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APR 13 2006

OFFICE OF PETITIONS

DARREN L. NOLAN
7386 NORTH LOCKWOOD RIDGE ROAD
SARASOTA FL 34243

In re Application of :
DARREN LEE NOLAN :
Application No. 10/245,105 : ON PETITION
Filed: September 17, 2002 :
Title of Invention: **ONE POUND DENSITY FOAM/CEMITITOUS WATERFALLS** :

This is a decision on the petition filed March 30, 2006 to withdraw the holding of abandonment, which is treated under 37 CFR 1.181.

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

This application became abandoned February 18, 2005 for failure to file a timely and proper response to the non-Final Office Action mailed November 17, 2004. Accordingly, a Notice of Abandonment was mailed March 8, 2006.

Petitioner contends that a response to the November 17, 2004 non-Final Office Action was timely filed on February 17, 2005 by facsimile transmission. Copies of the purported response was filed May 17, 2005, unfortunately, however, the purported response does not include a certificate of mail pursuant to 37 CFR 1.8[1], nor does it include an acknowledgment by the U.S. Patent and Trademark Office of an Auto-Reply Facsimile Transmission.

Although a copy of the sending unit's report confirming transmission of 29 pages was sent on February 17, 2005, no certificate of facsimile transmission or the auto-reply acknowledgment was included.

The U.S. Patent and Trademark Office (Office) file is the official record of papers filed in this application. A review thereof does not reveal that a response was filed to the non-Final Office Action on February 17, 2005 and since the proof submitted does not substantiate a finding that the response was received and perhaps through error of the USPTO not now of record, the holding of abandonment will not be withdrawn and the notice of abandonment will not be vacated.

---

[1] 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 U.S. Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

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

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

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

Petitioner may wish to filed a petition to revive under 37 CFR 1.137(a) or (b). Section 1.137(b) now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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) ($675.00);

(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 Commissioner may required additional information where there is a question whether the delay was unintentional; and

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

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Paper No. ____

STEPHEN B. DAVIS
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARMENT
P O BOX 4000
PRINCETON, NJ 08543-4000

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SEP 17 2004

OFFICE OF PETITIONS

In re Application of :
Donald J.P. Pinto et al :
Application No. 10/245,122 : DECISION GRANTING PETITION
Filed: September 17, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. PH-7398 :

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 May 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) 305-8680.

This matter is being referred to Technology Center AU 1624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

5-12-09

Patent No. : 7,450,945
Ser. No. : 10/245,153
Inventor(s) : James C. Bedingfield
Issued : November 11, 2008

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1583 or 1580

James C. Bedingfield
1117 Perimeter Center West
Suite E 402
Atlanta, GA 30338

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

MAIL

AUG 25 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

TOWNSEND and TOWNSEND and CREW, LLP
Two Embarcadero Center
8th Floor
San Francisco, CA 94111-3834

In re Application of:
Yoshio MITSUOKA et al.
Application No. 10/245,165
Filed: September 16, 2002
For: STORAGE SYSTEM AND METHOD FOR CONTROLLING THE SAME

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed 02 June 2004, requesting the grant of special status based on M.P.E.P. §708.02, Section VIII.

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

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

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

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

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

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

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

Applicant's combination of submissions meets all the criteria set out above, accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in M.P.E.P. §708.02, Section VIII.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (703) 305-9750.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

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MAR 0 3 2004

OFFICE OF PETITIONS

Applicant: Rudnicki et al.
Appl. No.: 10/245,171
Filing Date: September 17, 2002
Title: PAX-ENCODING VECTOR AND USE THEREOF
Attorney Docket No.: 50120/006002
Pub. No.: US 2003/0124102 A1
Pub. Date: July 3, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on September 8, 2003 for the above-identified application.

The request is granted.

The instant request is that the application be republished because the patent application publication is missing pages 27-31 of the application as originally filed.

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

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

M. O. Polutta

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/245,172	09/16/2002	Susie J. Wee	200208221-1	8249

7590 10/16/2008

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

EXAMINER	
PATEL, NIRAV B	
ART UNIT	**PAPER NUMBER**
2435	
MAIL DATE	**DELIVERY MODE**
10/16/2008	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
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P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

OCT 16 2008

TECHNOLOGY CENTER 2100

John Wagner, Jr.
Hewlett-Packard Company
Intellectual Property Administration
P.O. Box 272400
Fort Collins Co 80527-2400

In re Application of:
Wee, et al.
Application No. 10/245,172
Filed: September 16, 2002
For: Signal Format that Facilitates Easy Scalability of Data Streams

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

This is a decision on the petition filed September 18, 2007 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to designate the discussion of Nie in the response to arguments section of the examiner's answer a new grounds of rejection.

The Nie reference was relied on by the examiner to explain the meaning of a term used in the applied references (Parker in view of Wang or Park in view of Wang further in view of Dogan) and was not positively relied upon in the rejection or the arguments to teach a claim feature and as such is not necessary to support a rejection.

Applicant's counsel argued that MPEP 1207.03(III) recites that if the citation of a new prior art reference is necessary to support a rejection it must be included in the statement of the rejection and would be considered to introduce a new grounds of rejection.

As the use of Nie is not **necessary** to support a rejection it is **just helpful** to explain the meaning of the term in the art, the inclusion of this reference in the remarks section only of the examiners' answer is not a new grounds of rejection.

Accordingly the petition is **DISMISSED.**

Any inquiry concerning this decision should be directed to Tod Swann at (571) 272-3612. A second point of contact is QAS Kim Huynh at (571) 272-4147.

/Tod Swann/

Tod Swann
Quality Assurance Specialist
Technology Center 2400

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 B. MURPHY
O'MELVENY & MYERS LLP
SUITE 100
114 PACIFICA
IRVINE CA 92618

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MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of :
Sosnowski, et al. :
Application No. 10/245,206 : DECISION
Filed: 16 September, 2002 : ON PETITION
Attorney Docket No.: 612,404-407 :

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed 27 March, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior filed applications.

The petition is **DISMISSED** as inappropriate.

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 petition under 37 CFR 1.78(a)(3) is dismissed as inappropriate.

In view of the above, the surcharge fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account in due course.

Thus, the petition fee authorized is unnecessary and has not been charged.

This matter is being referred to Technology CenterAU 1634 for further processing in due course.

Any inquiries concerning this decision may be directed to John Gillon at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Supervisor
Office of Petitions

AF/IFW

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DAVID B. MURPHY
O'MELVENY & MYERS LLP
SUITE 100
114 PACIFICA
IRVINE CA 92618

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OFFICE OF PETITIONS

In re Application of	:	
Sosnowski, et al.	:	
Application No. 10/245,206	:	DECISION
Filed: 16 September, 2002	:	ON PETITION
Attorney Docket No.: 612,404-407	:	

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed 27 March, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior filed applications.

The petition is **DISMISSED** as inappropriate.

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 petition under 37 CFR 1.78(a)(3) is dismissed as inappropriate.

In view of the above, the surcharge fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account in due course.

Application No. 10/245,206

Thus, the petition fee authorized is unnecessary and has not been charged.

This matter is being referred to Technology CenterAU 1634 for further processing in due course.

Any inquiries concerning this decision may be directed to John Gillon at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Supervisor
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/24/06

TO SPE OF : ART UNIT 1742

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/245220 Patent No.: 6997994 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**.

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 1742 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Barbara R. Doutre
Motorola, Inc.
Law Department
8000 West Sunrise Boulevard
Fort Lauderdale, FL 33322

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MAY 15 2003

OFFICE OF PETITIONS

In re Application of :
Wong et al. :
Application No. 10/245,221 : DECISION ON PETITION
Filed: September 17, 2002 :
Attorney Docket Number: :
CM05392J :

This is a decision on the Second Petition under 37 CFR 1.182, filed February 19, 2002, requesting a corrected Filing Receipt.

The Petition is **granted**.

The petition requests that the title of the application be changed from Location Determination of a Private Network Radio Using a Public Network System", to "Bridging Talk Groups in Communication Systems".

A review of the file reveals that the title of the application that appears on the declaration is "Bridging Talk Groups in Communication Systems". A corrected Filing Receipt accompanies this Decision.

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

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Derek L. Woods
Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 5

ANDERSON LEVINE & LINTEL
14785 PRESTON ROAD
SUITE 650
DALLAS, TX 75254

COPY MAILED

SEP 15 2003

OFFICE OF PETITIONS

In re Application of :
Claudio R. Ballard et al :
Application No. 10/245,232 : ON PETITION
Filed: September 17, 2002 :
Attorney Docket No. DATA.P02 :

This is in response to the petition under 37 CFR 1.47(a), filed May 19, 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).

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 items (1) set forth above.

As to item (1), Applicants have failed to adequately show or provide proof that inventor James Cassata refused to sign the declaration after having been presented with the application papers (specification, claims and drawings). In this regard, while the petition states that "...on May 10, May 12, and May 14, 2003, a person associated with DataTreasure Corporation placed telephone calls to and left messages with Mr. Cassata...Declaration for this application." Since the record fails

to state that Mr. Cassata was ever presented with a copy of the instant application papers, he could not have attested that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. See MPEP 409.03(d). Unless applicants can show that a copy of the instant application papers was presented to Mr. Cassata, then applicants will have to mail a copy of the complete application papers to Mr. Cassata's last known address, return receipt requested. A cover letter of instructions should accompany the mailing of the application papers setting 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. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as certified mail return receipt, cover letter of instructions, telegrams, etc., to support a showing that inventor Mr. Cassata has refused to sign the declaration after having been presented with the application papers. See MPEP 409.03(d).

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. Where there is a written refusal, a copy of the document(s) 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.

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

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: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANDERSON LEVINE & LINTEL
14785 PRESTON ROAD
SUITE 650
DALLAS, TX 75254

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MAR 1 5 2004

OFFICE OF PETITIONS

In re Application of
Claudio R. Ballard et al
Application No. 10/245,232
Filed: September 17, 2002
For: DATA.P02

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

Papers filed on January 15, 2004 in response to a "Decision Refusing Status Under 37 CFR 1.47(a)," mailed September 15, 2003, included a Declaration signed by previously nonsigning inventor James Cassata in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, 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 to correct inventorship and consent of assignee, along with a request for a two month extension of time, are acknowledged. The petition to correct inventorship will be decided by the primary examiner of Technology Center 3600.

This matter is being referred to Technology Center AU 3624 for examination in due course.

Inquiries related to this decision may be addressed to the undersigned at (703) 305-8680.

Frances Hicks
Lead 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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MAR 13 2007

OFFICE OF PETITIONS

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

In re Application of :
Terry B. Strom et al :
Application No. 10/245,243 : ON PETITION
Filed: September 17, 2002 :
Attorney Docket No. 13985-039004/1699CAR001 :

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on February 7, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1646 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 145
ALEXANDRIA, VA 22313-145
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OCT 29 2003

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OCT 29 2003

OFFICE OF THE DIRECTOR
TC 3600

Paper No. 3

Patrick A. Doody
Hunton & Williams
Intellectual Property Department
1900 K Street, N.W.
Washington, D.C. 20006-1109

In re application of
Eugene E. Koronowski et al.
Application No. 10/245,288
Filed: September 18, 2002
For: TANK CARRIER APPARATUS

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on September 22, 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 statement from the applicant showing that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/cps 10/28/03

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT
1940 DUKE STREET
ALEXANDRIA VA 22314

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NOV 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Masahiro Harada et al :
Application No. 10/245,326 : ON PETITION
Filed: September 18, 2002 :
Attorney Docket No. 227228US0X :

This is a decision on the petition, filed November 3, 2005, under 37 CFR 1.182 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 September 27, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1754 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Alexandria, VA 22313-1450
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AUG 29 2006

Joseph B. Taphorn
8 Scenic Drive
HAGAN Farms
Poughkeepsie NY 12603

In re Application of
MITCHELL, DIANE M.
Serial No.: 10/245,350
Filed: Sept. 17, 2002
Docket: 4002-3371
Title: FEMININE HYGIENE SHORT

DECISION ON PETITION TO SET ASIDE FINALITY OF REJECTION and OVERRULE ADVSIORY ACTION and REQUIRE EXAMINER TO ENTER and CONSIDER AMNEDMENT AFTER FINAL

This is a decision on the petition filed on October 29, 2005 by which petitioners request supervisory review to set aside the Final rejection of Feb. 9, 2005 overrule the examiner's advisory action of March 21, 2005 and require the examiner to enter and consider the merits of the amendment after final of March 8, 2005. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is **dismissed**.

A review of the relevant prosecution history shows that the applicant filed the original claims on Sept. 17, 2002. On August 25, 2004, the examiner rejected all claims 1-20. The applicant subsequently filed an amendment on Nov. 22, 2004, which included a few minor changes to claims 1, 11, 17 and 18. On Feb. 9, 2005, the examiner issued a final Office Action repeating the same rejection as stated in the first Office action of Aug. 25, 2004 that Claims 1-20 are anticipated by Branch U.S. Pat. 4,813,950. On March 8, 2005, the applicant filed an amendment after final, which added substantial limitations to 1, 11 and 17. On March 21, 2005, the examiner issue an advisory action refusing entry of the amendment after final because the newly added limitations to claims 1, 11 and 17 required further consideration, further search and further consideration for issues of new matter. On March 31, 2005, the applicant filed a letter arguing that the added limitations in the amendment after final involved no issue of new matter and no further search required if the examiner has conducted a thorough search of the prior art in accordance with MPEP 904.02. The amendment after final included no new subject matter. Therefore, no new search is required.

Analysis of Application Record

MPEP 706.07(a) states in relevant part: "Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p)."

Relevant portion of **37 CFR § 1.116 (b)(1)** states: (1) An amendment may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action; (2) An amendment presenting rejected claims in better form for consideration on appeal may be admitted; or (3) An amendment touching the merits of the application or patent under reexamination may be admitted upon a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented

In the current application, the first Office action and the final rejection are identical with the exception of the words "seams" were replaced with "bands" due to the minor changes made by the applicant's amendment of Nov. 22, 2004. In view of the totality of the applicant's amendment of Nov. 22, 2004 and the examiner's final rejection Feb. 9, 2005, it is apparent that there was clear issue defined between the applicant and the examiner. For example, the applicant argued that there Branch patent does not disclose "elastic side seams" in the sense the applicant does. The applicant amended the claims to read "elastic side bands". Apparently, the examiner disagreed in the final rejection. This an example of a defined clear issue here. Since the original claims of Sept. 17, 2002 and the amended claims of Nov. 22, 2004 are substantially the same, then, the examiner was correct in making the second Office action final in accordance with MPEP 706.07(a).

The petitioner also argued the refusal to enter amendment after final was incorrect because the claims in the amendment after final were allowable, involved no issue of new matter, no new subject matter, no new search required if the examiner has conducted a thorough search of the prior art in accordance with MPEP 904.02. The arguments are not persuasive. The advisory action of March 21, 205 clearly stated the reasons why the amendment after final was not entered. In particular, the amendment after final did not cancel any claims or improve claims in better form for appeal purpose (37 CFR 1.116). To the contrary, the amendment after final does raise new issue that will require further consideration and further search. The newly added limitations to claims 1, 11 and 17 regarding ""having front and back halves with side edges" and "wide elastic side bands attached to the side edges of the cloth front and back haves" constitute new issues. The examiner must consider whether the added limitations involve any new matter not supported by the original specification, consider entire search areas and further consider patentability of the newly amended claims. Therefore, the refusal to enter amendment after final under 37 CFR 1.116 was correct.

Conclusion

For the foregoing reasons it appears that the examiner did not abuse his discretion, or act in an arbitrary or capricious manner, in making the Feb. 9, 2005 Office action final and refusing entry of the amendment after final in the advisory action of March 21, 2005. Therefore, there is no basis for granting any of the relief requested. The petition is dismissed.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3761 awaiting decision by the Board of Appeals and Interferences. Petitioner may file a request for reconsideration of this decision, without fee. However, such a request must be filed within two months of the date of this decision. See 37 CFR 1.181. Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

PETITION DISMISSED.

Frederick R. Schmidt, Director
Technology Center 3700

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Paper No. 110304

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 22314

NOV 18 2004

In re Application of:
SHIRAHATA *et al.*
Serial No.: 10/245,353
Filed: September 18, 2002
Attorney Docket No.: **227004US2**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed April 20, 2004, and the status request filed October 08, 2004. The petition has been treated as a petition under 37 CFR § 1.181, to withdraw the holding of abandonment in the above-identified application. No petition fee is required.

The petition is **GRANTED**.

The application was held abandoned for the failure to timely file a response to the Office action mailed on July 30, 2003. A Notice of Abandonment was mailed on March 29, 2004.

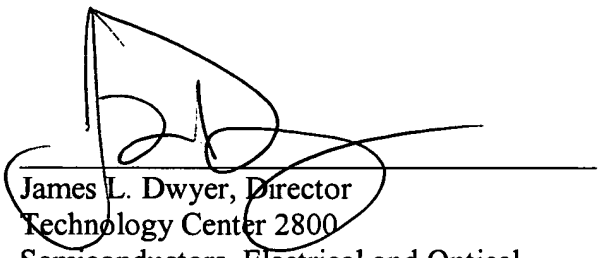
Petitioner asserts that on October 20, 2003, a response was timely filed in the above-identified application. To support this assertion, petitioner has submitted a copy of the response bearing a and a copy of a return postcard, which acknowledges receipt in the USPTO of the response on October 20, 2003.

A review of the application file reveals the above noted response was not matched with the application file wrapper at the time of mailing of the Notice of Abandonment. The above-identified response filed October 20, 2003, has since been located and matched with the file wrapper.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner of record for consideration of the response and prompt appropriate action.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.



James L. Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Paper No. 8

BELL, BOYD & LLOYD LLC
P. O. BOX 1135
CHICAGO, IL 60690-1135

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SEP 02 2003

OFFICE OF PETITIONS

In re Application of :
Baerlocher, et al. :
Application No. 10/245,387 : ON PETITION
Filing Date: September 16, 2002 :
Attorney Docket No.: 0112300-1053 :

This is a decision on the petition filed January 22, 2003 to accord the above-identified application a filing date of September 16, 2002 and enter previously omitted Figure 7.

The application was submitted September 16, 2002. The Notice, mailed October 16, 2002, indicated, *inter alia*, that the application had been accorded a filing date but that Figure 7 as described in the specification appeared to have been omitted from the application.

The Notice permits applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

Petitioner states that the instant application claims the benefit of priority to U.S. Pat. App. No. 09/966,884. Petitioner has submitted a copy of the omitted figure and states that no new matter has been added. Petitioner states that Figure 7 is part of the disclosure of the instant application because Figure 7 was included with the filing of the original parent application, U.S. App. No. 09/966,884, to which the instant application claims priority.

Petitioner's arguments have been considered and found unconvincing. The application transmittal letter submitted September 16, 2002 does indicate that the instant application is a continuation of prior application Serial No. 09/966,884. However, there was no incorporation by reference of the disclosure of application No. 08/966,884 into the disclosure of the present application on September 16, 2002

Petitioner's attention is directed to MPEP 201.06 wherein it states in pertinent part that as a safeguard against inadvertent omissions of prior application papers, an applicant may incorporate by reference the prior application by including, in

the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The incorporation by reference statement can only be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. However, a priority claim under 35 U.S.C. 120 in a continuation or divisional application does not amount to an incorporation by reference of the application(s) to which priority is claimed. For the incorporation by reference to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or transmittal letter-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. Mere reference to another application, patent, or publication is not an incorporation of anything therein into the application containing such reference for the purpose of the disclosure required by 35 U.S.C. 112, first paragraph. See, In re de Seversky, 474 F.2d 671, 177 USPQ 144 (CCPA 1973) and Dart Industries, Inc. v. Banner, 207 USPQ 273, 276 (D.C. Cir. 1980).

The mere reference to another application is not an incorporation of anything therein into the application containing the reference.

The petition is accordingly **DISMISSED**.

However, as petitioner seeks to add Figure 7 to the above-identified application on the basis that the drawing does not contain new matter, petitioner should be aware that no petition is necessary in this regard. New drawings may be entered by the primary examiner without a petition so long as the drawings do not contain new matter. *See*, MPEP 608.02(a). Petitioner is advised to file an amendment requesting entry of Figure 7. Any such amendment should be filed prior to the issuance of a first Office action on the merits to avoid further delay in prosecution of the application.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTH** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.182." This is not a final agency decision.

Correspondence directed to the United States Patent and Trademark Office, Office of Petitions 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

This application is being forwarded to the Office of Initial Patent Examination with a filing date of September 16, 2002 without the entry into the record of Figure 7.

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
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WASHINGTON, D.C. 20231
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Paper No. 7

GLENN PATENT GROUP
3475 EDISON WAY
SUITE L
MENLO PARK CA 94025

In re Application of
Hillis, et al.
Application No. 10/245,416
Filed: September 16, 2002
Attorney Docket No. APPL0019CIP
For: MODULAR STAND FOR LAPTOP COMPUTER

: DECISION GRANTING
: PETITION

This is a decision on the petition entitled, "PETITION BASED UPON OMITTED ITEMS IN A NON-PROVISIONAL APPLICATION 37 CFR 1.17(h)," filed December 9, 2002, requesting, in effect, partial withdrawal of the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed October 11, 2002 insofar as it alleges that Figure 7 described in the specification was omitted. The petition will be treated under 37 CFR 1.53(e).

The application was filed on September 16, 2002. On October 11, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that Figure 7 described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that Figure 7 be accorded a filing date of September 16, 2002 on the basis that 7 sheets of drawing figures, including Figure 7, were received in the Patent and Trademark Office (PTO) on September 16, 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 16, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 7 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 7 sheets of drawing figures were filed on September 16, 2002. MPEP 503. A review of the originally filed sheets of drawings reveals that only 6 sheets are present. Accordingly, the request is granted.

Pursuant to petitioners' authorization, the $130.00 petition fee will be credited to deposit account no. 07-1445.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of September 16, 2002, using the 7 sheets of substitute drawing figures submitted with the instant petition. Office records will be corrected to show that 7 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR **PATENT** FEE REFUND

1 Date of Request: 2/12/03

2 Serial/Patent # 10/245,416

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	6	12/09/02	$ 130
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 07--1445

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Postcard receipt proves allegedly omitted drawing was present upon filing. Refund pet fee.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: E Shirene Willis TITLE: Pet Atty

SIGNATURE: E Shirene Willis PHONE: 308-6712

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] DATE: 2/11/03

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

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Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/245,426	09/17/2002	Lawrence E. Albertelli	12078-179	7390

26486 7590 07/05/2007

BURNS & LEVINSON, LLP
125 SUMMER STREET
BOSTON, MA 02110

EXAMINER	
PATEL, KANJIBHAI B	
ART UNIT	**PAPER NUMBER**
2624	
MAIL DATE	**DELIVERY MODE**
07/05/2007	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 DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10245426	9/17/02	ALBERTELLI ET AL.	12078-179

BURNS & LEVINSON, LLP
125 SUMMER STREET
BOSTON, MA 02110

EXAMINER
Kanji Patel

ART UNIT	PAPER
2624	20070625

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The request for Certificate of Correction on Patent No: 7068856 B2 has been approved by the examiner.

KANJIBHAI PATEL
PRIMARY EXAMINER

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-25-07

TO SPE OF : **Technology Center** 2624 10/245426

SUBJECT : Request for Certificate of Correction on Patent No.: 7068856 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

all minor errors approved

[signature] 2624
SPE **Art Unit**

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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202

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OFFICE OF PETITIONS

In re Application of :
Chenming Hu, et al. :
Application No. 10/245,428 : DECISION GRANTING PETITION
Filed: September 17, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. TS01-1381 :

This is a decision on the petition, filed August 25, 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 17, 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.

It is noted that a Notice of Allowability and a Notice of Allowance were mailed in this application on June 10, 2004, which did not require the submission of a publication fee. In view of the rescinding of the nonpublication request, a publication fee of $300 is now due. Therefore, as authorized, and in order to expedite issuance of this application, the $300 publication fee will be charged to petitioner's Deposit Account No. 08-1394. If publication of the application does

not occur, applicant may file a request for a refund after the patent issues. See 37 CFR 1.211(e).

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

This application is being forwarded to Publication Division.

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
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SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/245,440	9/30/02	PETER JERNAKOFF, ET AL.	06222P USA

Title:
GEL- FREE COLLOIDAL ABRASIVE POLISHING COMPOSITIONS AND ASSOCIATED METHODS

Art Unit	Paper Number

Correspondence Address:
GEOFFREY C. CHASE
7201 HAMILTON BLVD.
ALLENTOWN, PA. 18195-1501

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 529,538
Grant Date: 30-Sep-02

Approved
for Commissioner of Patents and Trademar

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[Title 35, Unit d States Code (1952) Sections 184, 185, 186]

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Paper No. 4

Billie Jean Smith
Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Milwaukee WI 53202-4108

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DEC 19 2002

OFFICE OF PETITIONS

In re Application of :
Paul Warner :
Application No. 10/245,469 : DECISION GRANTING PETITION
Filed: September 17, 2002 :
Attorney Docket No. 077077-9130-00 :

This is a decision on the petition filed November 13, 2002, requesting that Figures 1 and 3 described in the specification be accorded a filing date of September 17, 2002, as part of the original disclosure.

On September 17, 2002, applicants filed the above-identified application. On October 30, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of September 17, 2002, and advising applicants that Figures 1 and 3 described in the specification appeared to have been omitted.

In response, on November 13, 2002, applicant filed, *inter alia*, the present petition and a copy of applicant's postcard receipt acknowledging receipt of "Formal Drawings 4 Sheets" on September 17, 2002. Additionally, applicant submitted a copy of one drawing sheet, containing Figures 1 and 3 with the present petition.

Upon review of the record, the drawing sheet containing Figures 1 and 3, deposited on September 17, 2002, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on September 17, 2002, included the drawing sheet of Figures 1 and 3, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Figures 1 and 3, was complete on filing and will be granted a filing date of September 17, 2002.

Accordingly, the petition is granted. No petition fee is necessary. The Notice of October 30, 2002, was sent in error and is hereby vacated.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of September 17, 2002, using the Figures 2, 4, and 5 submitted on that date, and Figures 1 and 3, submitted on November 13, 2002. The Office records should indicate that 4 sheets of drawings (Figures 1-5) were submitted on filing.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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BRIARCLIFF MANOR, NY 10510

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OFFICE OF PETITIONS

In re Application of :
Hubertus Gerardus Hendrikus Vermeulen, et. al. :
Application No. 10/245,489 : ON PETITION
Filed: September 17, 2002 :
Attorney Docket No. NL 010667 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on September 28, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely submit the issue fee and publication fee.

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.

The application file is being referred to the Publishing Division 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

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Paper No. 4

IAN F. BURNS & ASSOCIATES
1575 DELUCCHI LANE, SUITE 222
RENO NV 89502

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OFFICE OF PETITIONS

In re Application of
Seelig et al.
Application No. 10/245,531
Filed: September 16, 2002
Attorney Docket No. 619.634

DECISION GRANTING
PETITION

This is a decision on the petition under 37 CFR 1.10, filed October 16, 2002, requesting that the above-identified application be accorded a filing date of September 16, 2002, rather than the presently accorded filing date of September 17, 2002.

Petitioner alleges that the application was deposited in Express Mail service on September 16, 2002. In support of the allegation, the petition is accompanied by a United States Postal Service Track & Confirm receipt indicating that a package bearing Express Mail label No. EU070646414US was deposited in Express Mail service in Reno, Nevada 89502 on September 16, 2002, at 22:00. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**.

The $130.00 petition fee is unnecessary and is scheduled for a refund by treasury check.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to September 16, 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

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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

IAN F. BURNS & ASSOCIATES
1575 DELUCCHI LANE, SUITE 222
RENO NV 89502

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OCT 2 9 2002

OFFICE OF PETITIONS

In re Application of
Seelig et al.
Application No. 10/245,532
Filed: September 16, 2002
Attorney Docket No. 619.595

DECISION GRANTING
PETITION

This is a decision on the petition under 37 CFR 1.10, filed October 16, 2002, requesting that the above-identified application be accorded a filing date of September 16, 2002, rather than the presently accorded filing date of September 17, 2002.

Petitioner alleges that the application was deposited in Express Mail service on September 16, 2002. In support of the allegation, the petition is accompanied by a United States Postal Service Track & Confirm receipt indicating that a package bearing Express Mail label No. EU312293931US was deposited in Express Mail service in Reno, Nevada 89502 on September 16, 2002, at 22:00. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**.

The $130.00 petition fee is unnecessary and is scheduled for a refund by treasury check.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to September 16, 2002, and the mailing of a corrected filing receipt.

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
ATTN: PATENT DOCKETING 32ND FLOOR
P.O. BOX 7037
ATLANTA, GA 30357-0037

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NOV 13 2008

OFFICE OF PETITIONS

In re Application of :
Toshihiko TAKEUCHI, et al :
Application No. 10/273,541 : DECISION ON PETITION
Filed: October 18, 2002 : TO WITHDRAW
Attorney Docket No. MSB-7289 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 7, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Carl B. Massey, Jr. on behalf of the attorneys of record associated with Customer No. 26158.

All the attorneys of record associated with Customer No. 26158 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

The correspondence of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: TOSHIHIKO TAKEUCHI
6529 ASCOT DRIVE
OAKLAND, CA 94611

cc: BAYER HEALTHCARE LLC
555 WHITE PLAINS ROAD
TARRYTOWN, NY 10591

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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OFFICE OF PETITIONS

OSTRAGER CHONG FLAHERTY & BROITMAN PC
570 LEXINGTON AVENUE
FLOOR 17
NEW YORK NY 10022-6894

In re Application of :

STEIN, Lawrence et al. :
Application No. 10/245,558 : DECISION ON PETITION
Filed: September 17, 2002 : TO WITHDRAW
Attorney Docket No. **LCS-102** : 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 10, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **LAWRENCE STEIN**
8822 ALCOTT STREET #5
LOS ANGELES, CA 90035

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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OSTRAGER CHONG FLAHERTY & BROITMAN PC
570 LEXINGTON AVENUE
FLOOR 17
NEW YORK NY 10022-6894

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MAR 17 2008

OFFICE OF PETITIONS

In re Application of :

STEIN, Lawrence et al. :
Application No. 10/245,558 : DECISION ON PETITION
Filed: September 17, 2002 : TO WITHDRAW
Attorney Docket No. **LCS-102** : 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 06, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Dennis Flaherty on behalf of all attorneys of record who are associated with customer No. 44702. All attorneys/agents associated with the Customer Number 44702 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 Lawrence Stein at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **LAWRENCE STEIN**
8822 ALCOTT ST. #5
LOS ANGELES, CA 90035

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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570 LEXINGTON AVENUE
FLOOR 17
NEW YORK NY 10022-6894

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MAR 17 2008

OFFICE OF PETITIONS

In re Application of :

STEIN, Lawrence et al. :
Application No. 10/245,558 : DECISION ON PETITION
Filed: September 17, 2002 : TO WITHDRAW
Attorney Docket No. **LCS-102** : 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 06, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Dennis Flaherty on behalf of all attorneys of record who are associated with customer No. 44702. All attorneys/agents associated with the Customer Number 44702 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 Lawrence Stein at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **LAWRENCE STEIN**
8822 ALCOTT ST. #5
LOS ANGELES, CA 90035

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE WA 98104-7092

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OCT 0 5 2004

OFFICE OF PETITIONS

In re Application of :
David Allen :
Application No. 10/245,607 : DECISION ON PETITION
Filed: September 16, 2002 :
Attorney Docket No. 580091.408 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 30, 2004, to revive the above-identified application.

This application became abandoned for failure to timely submit the issue fee, as required by the Notice of Allowance and Fee (s) Due, and submit corrected drawings, as required by the Notice of Allowability both of which were mailed October 27, 2003. The Notice of Allowance and Issue Fee Due and the Notice of Allowability set a three (3) month period for reply. Extensions of time were not available under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on January 28, 2004. A Notice of Abandonment was mailed on March 3, 2004.

There is no indication that Petitioner herein is empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. In keeping with the above, the change of correspondence address will not be entered because petitioner is not an attorney of record for the above-identified application.

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.

The requirements to revive a 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
Petitions Attorney
Office of Petitions

cc: Michael Folise
Black Lowe & Graham, PLLC
701 Fifth Avenue, Suite 4800
Seattle, Washington 98104

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NOV 19 2004
PATENT & TRADEMARK OFFICE

DAC
IFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	David M. Allen	Attorney Docket No.	LAUG-1-1408 (580091.408)
Serial No.:	10/245,607	Group Art Unit:	2875
Filing Date:	September 16, 2002	Examiner:	John A. Ward
Title:	CONVERTIBLE FLASHLIGHT-HEADLAMP		

Charlema R. Grant, Esq.
Petitions Attorney
Office of Petitions
Commissioner for Patents[1]
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY TO DECISION ON PETITION

Sir:

This reply is in response to the Decision on Petition mailed on October 5, 2004 by the Office of Petitions. The undersigned representative of the above-identified Applicant is in receipt of a Decision on Petition mailed on October 5, 2004 for which an underlying Petition to Revive Application has been granted. Nevertheless, the Decision alleges that, "There is no indication that the Petitioner herein is empowered to prosecute the instant application". As a result, the Office will not process the Notice of Change of Attorney Address filed with the underlying petition.

---

[1] CERTIFICATE OF MAILING (37 CFR 1.8a)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Charlema R. Grant, Esq., Petitions Attorney, Office of Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

November 15, 2004
Date

Lisa Napoli
Lisa Napoli

The petition's Attorney attention is directed to the enclosed copy of the Declaration and Power of Attorney submitted with this application indicating that the undersigned is one of the attorneys of record. Therefore, the Notice of Change of Attorney Address filed on June 27, 2004 should be processed. A copy of that Notice of Change of Attorney Address is also enclosed.

Please contact the Applicant's undersigned representative if you have any further questions regarding this matter.

Respectfully submitted,

BLACK LOWE & GRAHAM PLLC

Michael J. Folise
Registration No. 31,952

MJF/ln
Enclosures: Postcard
Declaration and Power of Attorney
Notice of Change of Attorney Address

COPY

EXPRESS MAIL NO. EV170137808US

DECLARATION AND POWER OF ATTORNEY

As the below-named inventor, I declare that:

My residence, post office address, and citizenship are as stated below under my name.

I have reviewed and understand the contents of the foregoing specification, including the claims, and I believe I am the original, first and sole inventor of the invention entitled "CONVERTIBLE FLASHLIGHT-HEADLAMP," which is described and claimed in the foregoing specification.

I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application in accordance with 37 C.F.R. § 1.56(a).

I hereby appoint MICHAEL J. FOLISE, Registration No. 31,952 and H. ALBERT RICHARDSON Registration No. 27,701, composing the firm of RICHARDSON & FOLISE, 1200 Fifth Avenue, Suite 1801, Seattle, Washington, 98101, my attorneys to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. Please direct all telephone calls to Michael J. Folise at (206) 682-1600 and telecopies to (206) 682-3985.

I further 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 the making of willfully false statements and the like is punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and may jeopardize the validity of any patent issuing from this patent application.

David M. Allen

Date 5/13/02

Residence : City of Blachly, County of Lane
State of Oregon

Citizenship : United States of America

P.O. Address: 93890 Pope Road
Blachly, Oregon 97412

D:\LA22\P03\DEC&POA.WPD

COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	David M. Allen	Attorney Docket No.	LAUG-1-1408 (580091.408)
Serial No.:	10/245,607	Group Art Unit:	2875
Filing Date:	September 16, 2002	Examiner:	John A. Ward

Title: CONVERTIBLE FLASHLIGHT-HEADLAMP

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTICE OF CHANGE OF ATTORNEY ADDRESS

Sir:

Please take notice that the address of Michael J. Folise, appearing in the above-referenced patent application as 701 Fifth Avenue, Suite 6300, Seattle, Washington 98104 has been changed to:

BLACK LOWE & GRAHAM, PLLC
701 Fifth Avenue, Suite 4800
Seattle, Washington 98104

Please direct all future correspondence to the new address specified above.

Respectfully submitted,
BLACK LOWE & GRAHAM PLLC

Michael J. Folise
Registration No. 31,952
Direct Dial: 206.957.2485

MJF/ln

MAIL CERTIFICATE

I hereby certify that this communication is being deposited with the United States Postal Service via first class mail under 37 C.F.R. § 1.08 on the date indicated below addressed to: MAIL STOP PETITIONS, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

June 21, 2004
Date of Deposit

Lisa Napoli

BLACK LOWE & GRAHAM PLLC

25315
CUSTOMER NUMBER

701 Fifth Avenue, Suite 4800
Seattle, Washington 98104
206.381.3300 • F: 206.381.3301

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/245,612

Paper No.: _____

DATE : 2/3/05

TO SPE OF : ART UNIT 3617

SUBJECT : Request for Certificate of Correction on Patent No.: 6793293

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:

_____

_____

_____

_____

_____

_____ 3617

SPE — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FEB 14 2005

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

In re Application of :
Derick J. Page :
Serial No.: 10/245,614 :
Filed: Sept. 18, 2002 :
For: Reconfigurable Surface :

DECISION ON PETITION

This is in response to applicants' petition filed June 9, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Esther M. Kepplinger by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450 Washington, DC 20231, or by telephone at (571) 272-2975 or by facsimile transmission at (571)273-0275.

Esther M. Kepplinger
Director,
Technology Center 3700

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

IAN F. BURNS & ASSOCIATES
1575 DELUCCHI LANE, SUITE 222
RENO NV 89502

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OCT 3 0 2002

OFFICE OF PETITIONS

In re Application of
Seelig et al.
Application No. 10/245,623
Filed: September 16, 2002
Attorney Docket No. 619.601

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10, filed October 16, 2002, requesting that the above-identified application be accorded a filing date of September 16, 2002, rather than the presently accorded filing date of September 17, 2002.

Petitioner alleges that the application was deposited in Express Mail service on September 16, 2002. In support of the allegation, the petition is accompanied by a United States Postal Service Track & Confirm receipt indicating that a package bearing Express Mail label No. EU501252188US was deposited in Express Mail service in Reno, Nevada 89502 on September 16, 2002, at 22:00. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**.

The $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 50-0193.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to September 16, 2002, and the mailing of a corrected filing receipt.

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 4

IAN F. BURNS & ASSOCIATES
1575 DELUCCHI LANE, SUITE 222
RENO NV 89502

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OCT 2 9 2002

OFFICE OF PETITIONS

In re Application of :
Seelig et al. : DECISION GRANTING
Application No. 10/245,624 : PETITION
Filed: September 16, 2002 :
Attorney Docket No. 619.630 :

This is a decision on the petition under 37 CFR 1.10, filed October 16, 2002, requesting that the above-identified application be accorded a filing date of September 16, 2002, rather than the presently accorded filing date of September 17, 2002.

Petitioner alleges that the application was deposited in Express Mail service on September 16, 2002. In support of the allegation, the petition is accompanied by a United States Postal Service Track & Confirm receipt indicating that a package bearing Express Mail label No. ET607788385US was deposited in Express Mail service in Reno, Nevada 89502 on September 16, 2002, at 22:00. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**.

The $130.00 petition fee is unnecessary and is scheduled for a refund by treasury check.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to September 16, 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

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Alexandria, VA 22313-1450
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MAR 18 2005

In re Application of :
Jerald C. Seelig *et al* :
Application No. 010/245,624 : DECISION ON PETITION
Filed: September 16, 20002 :
Attorney Docket No. 0619.630 :
ACC.UA-Gold Rush

This is a decision on the petition filed on October 26, 2004 by which petitioners request withdrawal of holding that this application stands abandoned for failure to file a proper and timely reply to the Office letter dated February 23, 2004. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that this application is not abandoned because a timely reply to the Office letter in question was in fact filed on April 23, 2004. A review of the Image File Wrapper (IFW) file shows that a reply filed on April 23, 2004 is in fact in the file. Therefore, it is clear that this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner to have this application placed in a pending status, reflecting the amendment filed on April 23, 2004, and to have the amendment formally processed. Thereafter, the application will be forwarded to the examiner for appropriate action.

PETITION GRANTED.

E. R. Kazenske, Director
Technology Center 3700

Ian F. Burns & Associates
1575 Delucchi Lane, Suite 222
Reno, NV 89502

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

IAN F. BURNS & ASSOCIATES
1575 DELUCCHI LANE, SUITE 222
RENO NV 89502

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OCT 2 9 2002

OFFICE OF PETITIONS

In re Application of
Seelig et al.
Application No. 10/245,625
Filed: September 16, 2002
Attorney Docket No.619.588

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10, filed October 16, 2002, requesting that the above-identified application be accorded a filing date of September 16, 2002, rather than the presently accorded filing date of September 17, 2002.

Petitioner alleges that the application was deposited in Express Mail service on September 16, 2002. In support of the allegation, the petition is accompanied by a United States Postal Service Track & Confirm receipt indicating that a package bearing Express Mail label No. EU312293525US was deposited in Express Mail service in Reno, Nevada 89502 on September 16, 2002, at 22:00. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**.

The $130.00 petition fee is unnecessary and is scheduled for a refund by treasury check.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to September 16, 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 & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 10/28/02

2 Serial/Patent # 10/245,625

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	3	10/16/02	$ 130
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130

8 TO BE REFUNDED BY: $

Treasury Check CC

Credit Deposit A/C #:

9 [ ][ ]--[ ][ ][ ][ ]

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

No fee is required for this type of petition

11 REFUND REQUESTED BY: C. Donnell

TYPED/PRINTED NAME: Christina Donnell TITLE: Petitions Atty

SIGNATURE: C. L. Donnell PHONE: 306-5589

OFFICE: 4700

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alvar Kelly DATE: 10/30/02

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

IAN F. BURNS & ASSOCIATES
1575 DELUCCHI LANE, SUITE 222
RENO NV 89502

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OCT 3 0 2002

OFFICE OF PETITIONS

In re Application of
Seelig et al.
Application No. 10/245,628
Filed: September 16, 2002
Attorney Docket No. 560.584

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10, filed October 16, 2002, requesting that the above-identified application be accorded a filing date of September 16, 2002, rather than the presently accorded filing date of September 17, 2002.

Petitioner alleges that the application was deposited in Express Mail service on September 16, 2002. In support of the allegation, the petition is accompanied by a United States Postal Service Track & Confirm receipt indicating that a package bearing Express Mail label No. ET607788354US was deposited in Express Mail service in Reno, Nevada 89502 on September 16, 2002, at 22:00. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**.

The $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 50-0193.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to September 16, 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
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AUG 24 2004

Paper No. 081104

HUNG CHANG LIN
8 SCHINDLER COURT
SILVER SPRING, MD 20903

In re Application of:	:	
DERRICK J. PAGE	:	DECISION ON PETITION
Serial No.: 10/245,634	:	TO MAKE SPECIAL
Filed: September 18, 2002	:	
Attorney Docket No.: **PAGE-5C**	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed June 17, 2004, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a statement from attorney Hung Chang stating that Derrick J. Page is sixty-five (65) years of age or more as evident in parent application 10/041,986. A copy of the driver's license for Derrick J. Page is included in the parent application as evidence.

Accordingly, the petition is GRANTED.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/28/09

TO SPE OF : ART UNIT 3723

SUBJECT : Request for Certificate of Correction for Appl. No.: 10245678 Patent No.: 7141414 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☐ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☒ **Denied**	State the reasons for denial below.

Comments: PTO printed the claim correctly as patentee had presented it in his last amendment filed 11/29/05

_____

_____

_____

Joseph J. Hail, III 3723

UNITED STATES 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 : 09/28/09

Patent No. : 7141414 B2
Patent Issued : 11/28/06
Docket No. : **100111153-1**

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.

Respecting the alleged errors in the documents filed on 04/22/09; please see attachments. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703) 756-1574

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/28/09

TO SPE OF : ART UNIT 3723

SUBJECT : Request for Certificate of Correction for Appl. No.: 10245678 Patent No.: 7141414 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☐ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☒ **Denied**	State the reasons for denial below.

Comments: PTO printed the claim correctly as patentee had presented it in his last amendment filed 11/29/05

Joseph J. Hail, III 3723

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Arnold International
P.O. Box 129
Great Falls VA 22066-0129

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JUN 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Yahagi :
Application No. 10/245,681 : ON PETITION
Filed: September 18, 2002 :
Attorney Docket No. 25-201 :
For: GHOST IMAGE PREVENTION ELEMENT
FOR IMAGING OPTICAL SYSTEM

This is a decision on the petition under 37 CFR 1.137(a), filed April 21, 2004, to revive the above-identified application. The petition will be treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

The Office contended that the above-identified application became abandoned for failure to submit the issue fee and publication fee in response to the Notice of Allowance and Fee(s) Due (Notice), mailed August 12, 2003, which set a three month non-extendable period for reply. No reply being received, the Office contended that this application became abandoned on November 13, 2003. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

An allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed.

A review of the record indicates a major irregularity in the mailing of the Notice. The August 12, 2003 Notice was mailed to the correspondence address of record, but for inexplicable reasons, the Notice was returned to the Office on August 20, 2003. Thus, it is apparent that petitioner did not receive the original mailing. Petitioner had no knowledge of the mailing of the Notice until petitioner received a copy of it on April 15, 2004. Petitioner promptly filed the instant petition, returned a completed Fee Transmittal, and paid all required fees.

The petition under 37 CFR 1.181 is **granted** and the holding of abandonment is withdrawn. The $130.00 petition fee paid on April 21, 2004 will be credited to deposit account no. 01-2509.

After the mailing of this decision, the application file will be forwarded to Publications Division for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Kevin R. Spivak
Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 300
Mclean, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Maurizio Cinotti et al.	:	
Application No. 10/245,702	:	DECISION ON PETITION
Filed: September 18, 2002	:	TO WITHDRAW
Attorney Docket No. 449122043200	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 17, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on September 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Bell, Boyd & Lloyd, LLP**
P.O. Box 1135
Chicago, IL 60690

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OBLON, SPIVAK, MCCLELLAND, MAIER &
NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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AUG 0 4 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Hiroyuki Okada et al :
Application No. 10/245,756 :
Filed: September 18, 2002 :
Attorney Docket No. 228300US2 :

This is a decision on the petition, filed August 3, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 17, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 2871 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Hiroyuki Okada et al :
Application No. 10/245,756 :
Filed: September 18, 2002 :
Attorney Docket No. 228300US2 :

This is a decision on the petition, filed August 3, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 17, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 2871 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

RECEIVED: 9/1/04
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 9/1/04
Type of Resp(s):
Due Date(s):

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

In re Application of
Kohta Takenaka et al.
Application No. 10/245,767
Filed: September 18, 2002
Attorney Docket No. 227178US3

ON PETITION

This is a decision on the petition filed January 21, 2004 under 37 CFR 1.181 for an acknowledgment of the Information Disclosure Statement filed October 3, 2003.

The petition is **Granted**.

Petitioner claims to have submitted an Information Disclosure Statement (IDS) on October 3, 2003 and therein alleges that the references have not been acknowledged by the Examiner.

It is noted that the Notice of Allowance and Notice of Allowability were mailed November 18, 2003 and that in response to the Notice of Allowance, the issue fee was paid February 5, 2004.

In support of the claim, petitioners have provided a copy of a post card receipt, date stamped by the USPTO on October 3, 2003, as proof that the IDS was in fact filed prior to the payment of the issue fee.

In the absence of an extraordinary circumstance, it has been the policy of the Office to defer issuance of a patent, upon request, for a period of up to one (1) month only.[1] Thus, based on the above, the office will *sua sponte* defer issuance of the patent.

If an additional deferral period is required, a petition under 37 CFR 1.314 and the appropriate fees should be promptly submitted. The petition must include a showing of extraordinary circumstances.[2]

The application will be returned to the examiner for a determination that the IDS filed on October 3, 2003, is in compliance with 37 CFR 1.98(a)(3) as required by the Notice of Allowability mailed on November 18, 2003. Deposit Account No. 15-0030 will be charged in the amount of $180.00 for the submission of the IDS.

The application is being forwarded to Technology Center 2852 for treatment of the IDS filed on October 3, 2003.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] See MPEP 1306.01.

[2] See Note 1, supra.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

AUG - 4 2003

In re Application of :
Ligia S. Calonje *et al* : DECISION ON PETITION
Application No. 10/245,777 :
Filed: September 16, 2002 :
Attorney Docket No. 56055-0018

This is a decision on the petition to make this application special for advanced examination out of turn that was filed on July 23, 2003. The $130.00 petition fee has been paid.

The petition is granted.

Petitioners have requested special status on the grounds of actual infringement of the claimed invention. A review of the petition shows that petitioners have satisfied all of the requirements for a petition to make special on the grounds alleged as those requirements appear in MPEP § 708.02(II).

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 3727, 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

Hickman Palermo Truong & Becker, LLP
1600 Willow Street
San Jose, CA 95125

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DIW Apr-07

RAYMOND A. MILLER
PEPPER HAMILTON LLP
50TH FLOOR
500 GRANT STREET
PITTSBURGH PA 15219

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APR 23 2007

OFFICE OF PETITIONS

In re Patent No. 7081475 :
Issued: 07/25/2006 :
Application No. 10/245779 : ON PETITION
Filed: 09/16/2002 :
Atty Dckt No. 126387.701 :

This is a decision on the petition filed on 6 February, 2007, 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 referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090323

DATE : August 20, 2008

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 7081475

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/Joseph K McKane/
Supervisory Patent Examiner, Art Unit 1626

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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

APR - 4 2003

#9

DARBY & DARBY
805 THIRD AVENUE
NEW YORK NY 10022

In re Application of :
Hans Petersen et al :
Serial No.: 10/245,824 : PETITION TO MAKE SPECIAL
Filed: September 12, 2002 :
Attorney Docket No.: 5432/0M029 :

This is in response to applicants' petition filed March 18, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 8

GARVEY SMITH NEHRBASS & DOODY, LLC
THREE LAKEWAY CENTER
3838 NORTH CAUSEWAY BLVD., SUITE 3290
METAIRIE, LA 70002

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NOV 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Robert Simon, et al. :
Application No. 10/245,829 :
Filed: September 17, 2002 :
Attorney Docket No. C02210US (17923.1C): ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed by August 5, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed October 11, 2002. A Notice of Abandonment was mailed on February 4, 2004.

On August 5, 2004, the present petition was filed, accompanied by the basic filing fee; additional claim fees; an abstract of the technical disclosure; an executed declaration under 37 CFR 1.63[1]; and the $130 surcharge under 37 CFR 1.16(e).

In view of the above, the application is being returned to the Office of Initial Patent Examination (OIPE) for further processing.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] It is noted that Shawn Crowley signed on behalf of himself and deceased inventor Rene Bouchard. Based on counsel's statement provided in the petition, the Office assumes that Shawn Crowley is authorized to sign as the legal representative for deceased inventor Rene Bouchard. If this is an incorrect assumption, applicant must promptly notify the office.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 9

SMITH & NEPHEW, INC.
1450 E. BROOKS ROAD
MEMPHIS, TN 38116

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MAR 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Terry McLean :
Application No. 10/245,855 : ON PETITION
Filed: September 17, 2002 :
Attorney Docket No. HO-P02521US0 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 24, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 4, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 5, 2004.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This file is being forwarded to Technology Center AU 2636 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Gino Catena
Fulbright & Jaworski, LLP
1301 McKinney, Suite 5100
Houston, TX 77010-3095

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Mailed: 6/16/05

CHK
Paper No.

In re Application of Neogi
Serial No.: 10/245,863
Filed: September 16, 2002

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

Title: RADIATION CURABLE COMPOSITION AND RAPID PROTOTYPING PROCESS USING THE SAME

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed January 24, 2005 to correct inventorship under 37 CFR 1.48(a) by adding the names of Jayant Neogi 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.

Cynthia H. Kelly
Supervisory Patent Examiner
Art Unit 1752
Technology Center 1700

Scott A. Schaffer
MARGER, JOHNSON & McCOLLUM, P.C.
1030southwest Morrison Street
Portland, OR 97205

UNITED STATES PATENT AND TRADEMARK OFFICE

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TERRELL P. LEWIS
UNIT #8
343 PALOS VERDES BOULEVARD
REDONDO BEACH, CA 90277

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MAY 10 2005

OFFICE OF PETITIONS

In re Application of :
James G. Prather et al :
Application No. 10/245,870 : ON PETITION
Filed: September 16, 2002 :
Attorney Docket No. MW-P03.02 :

This is a decision on the petition under 37 CFR 1.173(b), filed April 14, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Office communication (Non Responsive Amendment (Notice)) mailed July 9, 2004. The Notice set a period for reply of one (1) month or thirty (30) days (whichever is later) 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 August 10, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of July 9, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3618.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paul V. Keller, Esq.
4585 Liberty Rd.
South Euclid, OH 44121

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DEC 02 2005

Director's Office
Group 3700

In re Application of
Hu, et al.
Serial No. 11/245,879
Filed: October 07, 2005

DECISION ON PETITION TO MAKE SPECIAL

For: EXHAUST AFTERTREATMENT SYSTEM WITH TRANSMISSION CONTROL

Applicant's petition, filed October 07, 2005, seeks to have this application made special based upon the Environmental Quality Program.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(V) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

Richard A. Bertsch
Technology Center 3700
571-272-3750

rt/ 12/01/05

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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

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NOV 10 2004

OFFICE OF PETITIONS

In re Application of :
Craig Perlov et al :
Application No. 10/245,897 : ON PETITION
Filed: September 17, 2002 :
Attorney Docket No: 10003812-1 :

This is a decision on the petition, filed November 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 October 8, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2822 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. 6

ROCHE PALO ALTO LLC
PATENT LAW DEPT. M/S A2-250
3431 HILLVIEW AVENUE
PALO ALTO, CA 94304

In re Application of	:	DECISION ON PETITION
Cheng et al.	:	
Application No. 10/245,906	:	COPY MAILED
Filed: September 17, 2002	:	SEP 29 2003
Attorney Docket Number:	:	
R0034G-CONT	:	OFFICE OF PETITIONS

This is a decision on the Petition filed September 11, 2003, under 37 CFR 1.137(b), to revive the above-identified application. The petition is being treated under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment for non-receipt of an Office action.

The petition is dismissed.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181", and be addressed to Petitions Attorney Derek L. Woods. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed December 12, 2002. The Notice set a three (3) month period for reply, and provided for extensions-of-time under 37 CFR 1.136(a). No extensions of time having been obtained, this application became abandoned on June 13, 2003. A Notice of Abandonment was mailed on July 21, 2003.

Applicant avers that the Office action was never received.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and

docket records indicate that the Office communication was not received.

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Accordingly, Petitioner must provide a copy of the docket record (or file jacket) where the non-received Office letters patent would have been entered had it been received and docketed, along with 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 indicate that the Office communication was not received.

A refund of the petition fee has been scheduled.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 8

ROCHE PALO ALTO LLC
PATENT LAW DEPT. M/S A2-250
3431 HILLVIEW AVENUE
PALO ALTO, CA 94304

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DEC 0 3 2003

OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Cheng et al.	:	
Application No. 10/245,906	:	
Filed: September 17, 2002	:	
Attorney Docket Number:	:	
R0034G-CONT	:	

This is a decision on the Renewed Petition to Revive Under 37 CFR §1.181, filed November 24, 2003. The petition is being treated under 37 CFR 1.181 as a request to withdraw the holding of abandonment for non-receipt of an Office action.

The petition is granted.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed December 12, 2002. The Notice set a three (3) month period for reply, and provided for extensions-of-time under 37 CFR 1.136(a). No extensions of time having been obtained, this application became abandoned on June 13, 2003. A Notice of Abandonment was mailed on July 21, 2003.

Petitioner avers non-receipt of the non-final Office action, mailed December 12, 2002. In support, Petitioner has provided the necessary statements and copies of the docket record where the non-received Office action would have been entered had it been received and docketed. Petitioner has demonstrated by a preponderance of the evidence that the Notice was not received.

The Notice of Abandonment is hereby withdrawn. No fee has been charged and none is due.

The application file is being forwarded to Technology Center 1626 for re-mailing of the Office action. A copy of the Office action is also enclosed herewith.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

Enclosure: December 12, 2002 Office action

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ADVANCED MEDICAL OPTICS, INC.
1700 E. ST. ANDREW PLACE
SANTA ANA CA 92705

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JUL 0 3 2007

OFFICE OF PETITIONS

In re Application of :
Paul et al. :
Application No. 10/245,920 : DECISION ON PETITION
Filed: September 18, 2002 :
Attorney Docket No. 17261CON2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 2, 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 and to submit corrected formal drawings on or before November 13, 2006, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed August 10, 2006. Accordingly, the date of abandonment of this application is November 11, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400.00, the publication fee of $300.00, and corrected formal drawings, (2) the petition fee of $1,500.00; and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6052 or in is absence, the undersigned at (571) 272-7099.

This application is being referred to Publishing Division for processing into a patent.

David Bucci
Petitions Examiner
Office of Petitions

cc: ADVANCED MEDICAL OPTICS, INC.
1717 N. ST. ANDREW PLACE
SANTA ANA CA 92705

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JUN 1 2004

Office of the Director
Group 3600

GEOFFREY E. DOBBIN, PATENT ATTORNEY
4278 SOUTH 6220 WEST
WEST VALLEY CITY UT 84128-6501

In re Application of
Richard Mark Fitzpatrick
Application No. 10/245,936
Filed: September 17, 2002
For: INTEGRAL MAGAZINE EXTRACTION EXTENSIONS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdrawal the holding of abandonment filed on February 11, 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 May 28, 2003 by the petitioner, Geoffrey E. Dobbin, attorney of record.

☐ 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/mjz: 5/7/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

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APR 15 2005

BUSKOP LAW GROUP, P.C.
1776 YORKTOWN
SUITE 550
HOUSTON TX 77056

In re Application of	:
Maurine Pearson et al.	:
Serial No.: 10/245,940	: PETITION TO MAKE SPECIAL
Filed: September 18, 2002	:
Attorney Docket No.: 1067.07	:

This is in response to the petition filed September 18, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant. The delay in acting on this petition is regretted.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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Paper No.

Jennifer N. Hinton
WATTS, HOFFMANN, FISHER &
HEINKE CO., L.P.A.
P.O. BOX 99839
Cleveland, OH 44199-0830

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JAN 2 7 2006

TECHNOLOGY CENTER 2100

In re Application of:
Victoria Lovegren
Application No. 10/245,944
Filed: September 18, 2002
For: METHOD FOR TRACKING AND ASSESSING PROGRAM PARTICIPATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed September 6, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. ∋ 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. **See M.P.E.P. ∋ 402.06. 37 C.F.R. ∋ 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.**

There is no indication that Applicant has been notified of the request for withdrawal.

Accordingly, the request is **DENIED**.

All future communications from the 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 Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

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Paper No.

Jennifer Hinton
WATTS, HOFFMANN, FISHER &
HEINKE COL., L.P.A.
P.O. BOX 99839
Cleveland, OH 44199-0830

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APR 19 2006

TECHNOLOGY CENTER 2100

In re Application of:
Victoria Lovegren
Application No. 10/245,944
Filed: September 18, 2002
For: METHOD FOR TRACKING AND ASSESSING PROGRAM PARTICIPATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed February 9, 2006.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. ə 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. ə 402.06. 37 C.F.R. ə 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed February 9, 2006 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

for James R. Matthews

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: Ms Victoria M. Lovegren
2226 Bellfield Avenue
Cleveland Heights, OH 44106

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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

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MAY 18 2005

OFFICE OF PETITIONS

In re Application :
Giordano, et al. :
Application No. 10/252,945 : PATENT TERM ADJUSTMENT
Filed: September 23, 2002 :
Dkt. No.: 50093/026002 :

This is a decision on the "APLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)," filed December 22, 2004.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is **GRANTED**.

The PAIR screen will continue to reflect a Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of zero days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants do not argue that the overall adjustment of zero days as of the time of allowance is correct. Applicants do, however, argue that the reduction of adjustment for applicants delay should be 95 days rather than 114 days as reflected in the PAIR calculation.

A review of the application history reveals that an adjustment under 37 CFR 1.702(a)(1) of 40 days can be attributed to the Office. In accordance with 37 CFR 1.703(a)(1), the adjustment began November 24, 2003, the day after the date that is 14 months from the date the application was filed, and ended January 2, 2004, the date the non-final Office action was mailed.

The Office errantly entered February 3, 2003 as the date a response to the Notice to File Missing Parts of Nonprovisional Application was filed. The Notice was mailed October 15, 2002 and a proper response was in fact timely submitted on December 16, 2002.

However, the adjustment of 40 days was properly reduced 95 days in accordance with 37 CFR 1.704(b). The delay began April 3, 2004, the day after the date that is three months after the date of mailing of the non-final Office action, and ended July 6, 2004, the date a reply was submitted.

In view thereof, at the time of Notice of Allowance the application is entitled to a patent term adjustment of zero days as agreed to by applicants.

The Office acknowledges receipt of the required fee of $200.00 for an application for patent term adjustment.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation

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GEOFFREY E. DOBBIN
4278 SOUTH 6220 WEST
WEST VALLEY CITY, UT 84128-6501

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OFFICE OF PETITIONS

In re Application of :
Richard Mark Fitzpatrick :
Application No. 10/245,954 :
Filed: September 17, 2002 :
Attorney Docket No. GDRMF01H :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 28, 2006, 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 9, 2003, which set a shortened statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 10, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This file is being forwarded to the Publishing Division to be reviewed by the drawing draftperson.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 3

LEAGRE CHANDLER & MILLARD, LLP
1400 FIRST INDIANA PLAZA
135 NORTH PENNSYLVANIA STREET
INDIANAPOLIS, IN 46204-2415

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DEC 2 7 2002

OFFICE OF PETITIONS

In re Application of :
Michael E. Miller :
Application No. 10/245,959 : DECISION GRANTING PETITION
Filed: September 17, 2002 :
Attorney Docket No. PROMEX-2012 :

This is a decision on the Petition For Corrected Filing Date Under 37 CFR 1.10(c), filed December 10, 2002, requesting that the above-identified application be accorded a filing date of September 17, 2002, instead of the presently accorded date of September 18, 2002.

Petitioner alleges that the application was deposited in "Express Mail" service with the U. S. Postal Service, on September 17, 2002. In support, petitioner provides, inter alia, a copy of the Express Mail label, receipt no. EL424476501US, showing a Date-In of September 17, 2002. The same Express Mail receipt number was referred to in the original application papers found in the file. Petitioners request that the application be accorded a filing date of September 17, 2002.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. The evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on September 17, 2002.

The petition is GRANTED.

The application is being returned to Initial Patent Examination Division (OIPE) for correction of the filing date to **September 17, 2002**.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Attn: Albert B. Kimball, Jr.
BRACEWELL & PATTERSON, L.L.P.
P.O. Box 61389
Houston TX 77208-1389

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JAN 15 2009

In re Application of :
Eric Hjorth :
Application No. 10/245,962 : NOTICE
Filed: September 18, 2002 :
Attorney Docket No. 074065.000002 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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NXP, B.V.
NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE, CA 95131

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FEB 25 2008

OFFICE OF PETITIONS

In re Application of :
Kevin Locker, et. al. :
Application No. 10/245,984 : ON PETITION
Filed: September 18, 2002 :
Attorney Docket No. US020326 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 3, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed November 15, 2005. A Notice of Abandonment was mailed on November 14, 2006.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

Further, there is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Michael J. Ure appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

As authorized, the petition fee of $1,500 has been charged to petitioner's deposit account.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2624 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

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NEUROPACE, INC.
1375 SHOREBIRD WAY
MOUNTAIN VIEW CA 94043

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JUL 27 2006
OFFICE OF PETITIONS

In re Application of :
David Fischell et al. :
Application No. 10/245,992 : ON PETITION
Filed: September 17, 2002 :
Attorney Docket No.: N08-02 :

This is a decision on the petition filed May 16, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

A non-Final Office Action was mailed October 6, 2005 setting a three month shortened statutory period for reply. No response or request for an extension of time having been filed in this application prior to the expiration of the time set for reply, this application became abandoned January 7, 2006. Accordingly, a Notice of Abandonment was mailed May 4, 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 continuation application under 37 CFR 1.53(b); (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

is again abandoned in favor of continuation application no.11/436,676 filed May 2, 2006, pursuant to the provisions of 37 CFR 1.53(b).

Additionally, the record reveals that a three month extension of time was filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1020.00 extension of time fee submitted with the petition on May 16, 2006 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 03-1952.

Finally, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This matter is being referred to Technology Center 3766 for processing of the continuation application filed May 16, 2006.

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

cc:

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

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MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS MN 55458

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NOV 0 6 2003

OFFICE OF PETITIONS

Applicant: Steer et a.
Appl. No.: 10/246,025
Filing Date: September 18, 2002
Title: METHODS OF LIMITING APOPTOSIS OF CELLS
Attorney Docket No.: 110.00540102
Pub. No.: US 2003/0044413 A1
Pub. Date: March 6, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on April 15, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication does not include a reference to Provisional Application 60/060,040, which is shown on the Corrected Filing Receipt.

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 patent application publication does not include a mistake in the publication by the Office because patent application publications do not include preliminary amendments, according to 37 CFR 1.215(a), which says the following, in part:

> (a) ... 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.

§ 1.215(c) says the following:

> (c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended during examination, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the actual filing date of the application or fourteen months of the earliest filing date for which is sought under title 35, United States Code, whichever is later.

---

[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 initial Filing Receipt mailed on October 18, 2002, did not include a reference to the provisional application because applicant did not supply a proper reference to the provisional application. Applicant filed a Preliminary Amendment and a Request for a Corrected Filing Receipt on November 20, 2002, and included a benefit claim to the provisional application in the Preliminary Amendment. Applicant did not supply a copy of the application in compliance with 37 CFR 1.215(c). The Office correctly published the application in accordance with 37 CFR 1.215(a).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), should be submitted via the EFS system and questions 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

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/246,044	09/17/2002	Umeshwar Dayal	10019033-1	1689

22879 7590 06/04/2010

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528

EXAMINER	
BARQADLE, YASIN M	
ART UNIT	**PAPER NUMBER**
2456	

NOTIFICATION DATE	DELIVERY MODE
06/04/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM
ipa.mail@hp.com
laura.m.clark@hp.com

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JUN 03 2010

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

John P. Wagner, Jr.
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

In re Application of: DAYAL, Umeshwar et. al.
Application No. **10/246,044**
Filed: September 17, 2002
Atty Docket No: 10019033-1
Title of Invention: METHOD AND SYSTEM FOR PEER TO PEER COMMON CHANNEL COLLABORATION

DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition filed 02/26/10 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw: (i) holding of abandonment mailed 02/26/10.

The Applicant's counsel filed the above-mentioned petition to the Director under 37 CFR § 1.181 to seek relief from actions of the Examiner regarding the above-mentioned Notice of Abandonment in relation to Board of Patent Appeals and Interferences (BPAI hereafter).

The petition to withdraw the holding of abandonment is **GRANTED.**

RELEVANT PROSECUTION HISTORY

06/26/07	Appeal Brief is filed under 37 C.F.R. § 41.37 (a).
09/28/07	Examiner's Answer is mailed.
10/26/09	BPAI renders decision, namely, reversing Examiner's rejection of claims 1-5, 7, 9-1, 15, 17-25 and 27 (see p. 6); reversing the obviousness rejection of claims 6, 8, 14, 16, 26 and 28 (see p. 6); and sustaining the Examiner's rejection of claims 1-4, 9-12 and 17-24 under 35 USC §102(b) (see p. 8).
02/26/10	Notice of Abandonment was mailed. Reason stated thereon: The decision by the BPAI rendered 10/22/09 and because the period for seeking court review of the decision has expired and there are no allowed claims.
04/26/10	Petition to Director under 37 CFR 1.181 to withdraw holding of abandonment was filed.

04/26/10 Applicant summary of interview with the Examiner was filed.

RULES, REGULATIONS AND PROCEDURES

MPEP § 1214.06(I)(B) states in part that:

(B) If the Board or court affirms a rejection against an independent claim and reverses all rejections against a claim dependent thereon, after expiration of the period for further appeal, the examiner should proceed in one of two ways:

(1) Convert the dependent claim into independent form by examiner's amendment, cancel all claims in which the rejection was affirmed, and issue the application; or

(2) Set a 1-month time limit in which appellant may rewrite the dependent claim(s) in independent form. Extensions of time under 37 CFR 1.136(a) will not be permitted. If no timely reply is received, the examiner will cancel all rejected and objected to claims and issue the application with the allowed claims only.

OPINION

The decision of the BPAI mailed 04/26/10 has been fully reviewed. Examiner's rejection of claims 1-5, 7, 9-13, 15, 17-25 and 27 was **explicitly reversed** (see p. 6 of decision). The obviousness rejection claims 6, 8, 14, 16, 26 and 28 was **explicitly reversed** (see p. 6 of decision); and Examiner's rejection of claims 1-4, 9-12 and 17-24 under 35 USC §102(b) was sustained (see p. 8 of decision).

As such, the Board has explicitly affirm the rejection against at least independent claims 1, 9, 17 and 21 and **explicitly reverse** the rejection of claims 5-8, 13-16 and 25-28 dependent thereon. The Examiner is to therefore proceed in accordance with MPEP 1214.06(I)(B) supra.

Namely, the examiner should proceed in one of two ways:

(1) Convert the dependent claim into independent form by examiner's Amendment, cancel all claims in which the rejection was affirmed, and issue the application; or

(2) Set a 1-month time limit in which appellant may rewrite the dependent claim(s) in independent form. Extensions of time under 37 CFR 1.136(a) will not be permitted. If no timely reply is received, the examiner will cancel all rejected and objected to claims and issue the application with the allowed claims only.

For the above-mentioned reasons, petition to withdraw holding of abandonment is hereby **GRANTED**.

Instant application will be forwarded to Technical Support Staff for withdrawal of Notice of Abandonment mailed 02/26/10 and forward to Examiner of record for proper treatment of decision rendered by the BPAI.

Any inquiry regarding this decision should be directed to Beatriz Prieto, Quality Assurance Specialist, at (571) 272-3902. A second point of Contact is Kim Huynh, Quality Assurance Specialist which can be reached at (571)-272-4147.

/bp/

/Beatriz Prieto/

Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

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MORRIS & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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JUN 05 2007

OFFICE OF PETITIONS

In re Application of :
Selena CHAN, et al :
Application No. 10/246,049 : DECISION ON PETITION
Filed: September 17, 2002 : TO WITHDRAW
Attorney Docket No. 0707009200 : 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 13, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Morris & Foerster LLP has been revoked by the assignee of the patent application on April 13, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There 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: RAJ S. DAVE, PH.D.
DARBY & DARBY, P.C.
1500 K STREET, N.W.
SUITE 250
WASHINGTON, D.C. 2005-1714

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/246,049	09/17/2002	Selena Chan	070702009200

CONFIRMATION NO. 8150

OC000000023999215

7278
DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York, NY 10008-0770

Date Mailed: 05/22/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/13/2007.

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.

Diane Goodhue

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/246,049	09/17/2002	Selena Chan	070702009200

CONFIRMATION NO. 8150

OC000000023999155

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 05/22/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/13/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Diane Goodwyn

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/246,049	09/17/2002	Selena Chan	070702009200

CONFIRMATION NO. 8150

OC000000023999155

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 05/22/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/13/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
NEW ATTORNEY/AGENT COPY

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OFFICE OF PETITIONS

FISH & RICHARDSON
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of :
Joseph A. Zupanick et al :
Application No. 10/246,052 : ON PETITION
Filed: September 17, 2002 :
Attorney Docket No. 067083.0175 :

This is a decision on the petition, filed July 7, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **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 22, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3673 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : July 7, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Joseph A. Zupanick et al
Application No. :10/246,052
Filed :September 17, 2002

The above-identified application has been assigned Patent No. 7,073,596 and an issue date of July 11, 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 July 11, 2006:

"All reference to Patent No. 7,073,596 to Joseph A. Zupanick et al of West Virginia for ACCELERATED PRODUCTION OF GAS FROM A SUBTERRANEAN ZONE appearing in the Official Gazette of July 11, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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OFFICE OF PETITIONS

FISH & RICHARDSON
P.O. BOX 1022
MINNEAPOLIS MN 55440-1-22

In re Application of	:	
Joseph A. Zupanick et al	:	
Application No. 10/246,052	:	DECISION GRANTING PETITION
Filed: September 17, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 17601-023001/067083.0175	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 10, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 19, 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 3673 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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JAN 27 2005

In re Application of	:	
William E. Post et al.	:	
Serial No. 10/246,055	:	DECISION ON PETITION
Filed: September 18, 2002	:	TO WITHDRAW AS ATTORNEY
For: FORMER FOR FORMING A RECTANGULAR BAG TUBE	:	

By papers filed on August 20, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the correspondence address for this application is:

Mr. Fred H. Zollinger, III
6370 Mt. Pleasant Ave., NW
P.O. Box 2368
North Canton, OH 44720

E.R. Kazenske, Director
Technology Center 3700

Sand and Sebolt
Aegis Tower
4940 Munson Street, NW, Suite 1100
Canton, OH 44718

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Paper No. 5

LAW OFFICES OF ERIK J. HEELS
2 CLOCK TOWER PLACE
SUITE 255
MAYNARD MA 01754-2545

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OFFICE OF PETITIONS

In re Application of
David W. Howard
Application No. 10/246,060
Filed: September 18, 2002
Attorney Docket No. 02.1725

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed November 14, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (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 18, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being forwarded to Technology Center Art Unit 3745 for examination in due course.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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WASHINGTON, D.C. 20231
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Technology Center 2100

Paper No. 4

Blakely, Sokoloff, Taylor & Zafman LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

In re Application of: Ezoe Chang	)	
Application No. 10/246,069	)	
Filed: September 17, 2002	)	**DECISION ON REQUEST FOR**
For: SYSTEM AND METHOD FOR WEBSITE LOGIN DATA MANAGEMENT	)	**WITHDRAWAL AS ATTORNEY**

This is a decision on the Request To Withdraw from Representation filed November 18, 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 request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

for

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Clement Cheng
17220 Newhope Street, #127
Fountain Valley, CA 92708

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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
250 PARK AVENUE
NEW YORK NY 10177

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OCT 11 2007

OFFICE OF PETITIONS

In re Application of	:	
Kaufman Arie et al.	:	
Application No. 10/246,070	:	DECISION ON PETITION UNDER
Filed: September 16, 2002	:	37 C.F.R. § 1.137(A)
Attorney Docket Number:	:	
035442/US - 479456-00065	:	
Title: COMPUTER ASSISTED	:	
DETECTION OF LESIONS IN	:	
VOLUMETRIC MEDICAL IMAGES	:	

This is a decision on the petition filed August 24, 2007, pursuant to 37 C.F.R. § 1.137(a)[1], to revive the above-identified application.

BACKGROUND

The above-identified application became abandoned for failure to submit the issue fee in reply to the Notice of Allowance and Issue Fee Due, mailed April 17, 2007, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[2]. Accordingly,

1 A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. §1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable;
(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.

2 See MPEP §710.02(e).

the above-identified application became abandoned on July 18, 2007. A Notice of Abandonment was mailed on August 16, 2007.

A discussion follows.

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]

"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

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3 Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency'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.")

4 Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

5 Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. 706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

6 Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

THE STANDARD

The burden of showing the cause of the delay is on the person seeking to revive the application[7].

"[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."[8]

The Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and the applicant is bound by the consequences of those actions or inactions[9]. Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133[10].

The actions of the attorney are imputed to the client, for when a petitioner voluntarily chooses an attorney to represent him, the petitioner cannot later distance himself from this attorney, so as to avoid the repercussions of the actions or inactions of this selected representative, for clients are bound by the acts of their lawyers/agents, and constructively possess "notice of all facts, notice of which can be charged upon the attorney[11]."

Courts hesitate to punish a client for its lawyer's gross negligence, especially when the lawyer affirmatively misled the client," but "if the client freely chooses counsel, it should be bound to counsel's actions[12]."

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account[13]."

RELEVANT LAW AND PORTIONS OF THE C.F.R.

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

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7 Id.

8 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

9 Link v. Wabash, 370 U.S. 626, 633-634 (1962).
10 Haines, 673 F.Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32; Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 103, 131 (Comm'r Pat. 1891).
11 Link at 633-634.
12 Inryco, Inc. v. Metropolitan Engineering Co., Inc., 708 F.2d 1225, 1233 (7th Cir. 1983). See also, Wei v. State of Hawaii, 763 F.2d 370, 372 (9th Cir. 1985); LeBlanc v. I.N.S., 715 F.2d 685, 694 (1st Cir. 1983).
13 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.

thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

(Amended Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-582 (S. 1948 sec. 4732(a)(10)(A)).)

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 C.F.R. § 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.

ANALYSIS

With the present petition, Petitioner has submitted the petition fee, the issue fee, and two statements of facts.

With the present petition, Petitioner has asserted that upon the creation of the docketing database record that is associated with the present application, a member of his law firm's staff incorrectly entered the present nonprovisional application as a provisional application. As such, the status of the record changed to "inactive" twelve months after the filing date - the docketing software allowed subsequent entries to be made, but failed to generate a reminder for any entry that was placed into the system while the record was inactive. Consequently, no

reminder was generated to notify a member of the law firm to submit the maintenance fee subsequent to the receipt of the Notice of Allowance and Issue Fee Due.

As such, Petitioner has asserted that the entire period of delay occurred due to a docketing error. A delay resulting from a docketing error on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay.

Such a showing should identify the specific error[14], the individual who made the error, and the business routine in place for performing the action which resulted in the error. The showing must establish that the individual who erred was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care. The showing should include information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

As such, a docketing error on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

(1) the error was the cause of the delay at issue,
(2) a business routine was in place for performing the clerical function that could reasonably be relied upon to avoid errors in its performance, and;
(3) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

See MPEP 711.03(c)(III)(C)(2).

An adequate showing should include (when relevant):

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14 Petitioner must identify the error which caused the delay. If the specific error cannot be identified, Petitioner must identify any and all possible causes and prove that any of them, if they were the true cause, constitute unavoidable delay. A full and complete discussion for each possible error must be presented. Petitioner is reminded that he has the burden of proof.

(1) statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them;
(2) a thorough explanation of the docketing and call-up system in use;
(3) identification of the type of records kept;
(4) identification of the persons responsible for the maintenance of the system;
(5) copies of mail ledger, docket sheets, filewrappers and such other records as may exist which would substantiate an error in docketing;
(6) include an indication as to why the system failed in this instance, and;
(7) information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

With the present petition, Petitioner has identified the error that was the cause of the delay at issue, provided a thorough explanation of the docketing and call-up system in use, identified the type of records kept, provided copies of records as may exist which would substantiate an error in docketing, and included an indication as to why the system failed in this instance.

The deficiencies in Petitioner's showing will be addressed below.

First, along with the present petition, Petitioner filed, *inter alia*, a declaration of facts that was executed by Ms. Hollingsworth (a paralegal who is presently responsible for the docketing of mailings received from the Office), a declaration of facts that was executed by Mr. Ackerman (the attorney who is responsible for the prosecution of the present application), and a statement of facts that refers to the two aforementioned declarations of facts, that was executed by Mr. Ackerman. In essence, the statement of facts summarizes the accompanying two declarations of fact.

The statement of facts asserts that the docket clerk who entered the erroneous entry that classified the present application as a provisional application (which resulted in the failure of the docketing system to generate a reminder prior to the due date of the issue fee) was one Ms. Guilliano. On the second page of the

statement of facts, it is further set forth that Ms. Guilliano was "employed by Dorsey as a docketing paralegal from about September 2004 through April 2006," and cites to paragraph 5 of the Hollingsworth declaration of facts. However, the fifth paragraph of the Hollingsworth declaration of facts concerns the "Audit Trail Report" for the law firm's docketing software, and does not refer to Ms. Guilliano.

Moreover, the declaration of facts that was executed by Mr. Ackerman, over his registration number, sets forth that Ms. Guilliano was "employed by Dorsey from about September 1994 through May 1996[15]." Since the present application was not filed until 2002, it is not possible that Ms. Guilliano created "the database record for the present application[16]," as has been asserted by Mr. Ackerman.

Consequently, Petitioner has submitted conflicting information regarding the employment dates of Ms. Guilliano. Since Petitioner's statements of facts cites to Petitioner's declaration of facts, the Office will presume that the information that appears in the declaration of facts is reliable.

Petitioner has asserted that Ms. Guilliano left the firm in 1996. In the fifth paragraph of Ms. Hollingsworth's declaration of facts, she has asserted that her employment as a paralegal in the firm's patent department began on October 4, 2006. Consequently, it is clear that neither of these individuals were responsible for the docketing of the present application in 2002.

It does not appear that Petitioner has correctly identified the person responsible for the maintenance of the system, at the time of the creation of the erroneous entry that resulted in the abandonment of the present application.

Secondly, Petitioner has not submitted statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them, in that he has not included a statement from the unnamed individual who mischaracterized this application as a provisional application when initially entering this application's pertinent information in the firm's docketing system.

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15 Ackerman declaration of facts, paragraph 5.
16 Id.

Third, Petitioner has failed to provide a showing that would establish that the docketing personnel were sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

Fourth, Petitioner has not provided examples of other work functions carried out by the docketing personnel.

Fifth, Petitioner has failed to describe the supervision of the docketing personnel's work.

Was anyone reviewing his/her work product, ensuring that all applications were properly entered into the docketing system? Were any checks performed on the described work that were used to assure proper execution of assigned tasks? If not, and if docketing personnel were free to enter incorrect information that guaranteed that reminders would not be generated, it does not appear that the firm has in place a business routine which could reasonably be relied upon to avoid errors in its performance.

Sixth, Petitioner has asserted that once a file is inactive, "the system does not prevent new docketing information from be (sic) added, nor does it issue a warning regarding the status of the file or provide an indication that reports of newly entered deadlines will not be generated[17]." If the docketing system allows users to input information, and leads them to believe that a reminder will be generated when in fact this is not the case, it does not appear that the firm has in place a business routine which could reasonably be relied upon to avoid errors in its performance.

As such, the present petition must be **DISMISSED**.

NOTICE:

Any request for reconsideration of this decision under 37 C.F.R. § 1.137(a) must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. Failure to respond will result in abandonment of the application. The request for reconsideration should include a cover letter entitled "Second Renewed Petition under 37 C.F.R. § 1.137(a)," and should only address the deficiencies noted in this decision.

17 Hollingsworth declaration of facts, paragraph 11.

Thereafter, there will be no further reconsideration of this matter[18, 19].

Alternatively, Petitioner may wish to consider filing a petition under 37 C.F.R. § 1.137(b).

Any further submission should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[20], hand-delivery[21], or facsimile[22].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[23]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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18 For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

19 If, on the second request for reconsideration, Petitioner fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. §1.137(e), will **not** apply to that decision.

20 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

21 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

22 (571) 273-8300- please note this is a central facsimile number.

23 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
250 PARK AVENUE
NEW YORK NY 10177

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DEC 21 2007

OFFICE OF PETITIONS

In re Application of :
Kaufman Arie et al. :
Application No. 10/246,070 : DECISION ON RENEWED PETITION
Filed: September 16, 2002 : UNDER 37 C.F.R. § 1.137(A)
Attorney Docket Number: :
035442/US - 479456-00065 :
Title: COMPUTER ASSISTED :
DETECTION OF LESIONS IN :
VOLUMETRIC MEDICAL IMAGES :

This is a decision on the renewed petition filed November 16, 2007, pursuant to 37 C.F.R. § 1.137(a)[1], to revive the above-identified application.

BACKGROUND AND PROCEDURAL HISTORY

The above-identified application became abandoned for failure to submit the issue fee in reply to the Notice of Allowance and Issue Fee Due, mailed April 17, 2007, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[2]. Accordingly,

1 A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. §1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable;
(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.

2 See MPEP § 710.02(e).

the above-identified application became abandoned on July 18, 2007. A Notice of Abandonment was mailed on August 16, 2007.

An original petition was filed on August 24, 2007, and was dismissed via the mailing of a decision on October 11, 2007.

A discussion follows.

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

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6 Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

THE STANDARD

The burden of showing the cause of the delay is on the person seeking to revive the application[7].

"[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."[8]

The Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and the applicant is bound by the consequences of those actions or inactions[9]. Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133[10].

The actions of the attorney are imputed to the client, for when a petitioner voluntarily chooses an attorney to represent him, the petitioner cannot later distance himself from this attorney, so as to avoid the repercussions of the actions or inactions of this selected representative, for clients are bound by the acts of their lawyers/agents, and constructively possess "notice of all facts, notice of which can be charged upon the attorney[11]."

Courts hesitate to punish a client for its lawyer's gross negligence, especially when the lawyer affirmatively misled the client," but "if the client freely chooses counsel, it should be bound to counsel's actions[12]."

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account[13]."

RELEVANT LAW AND PORTIONS OF THE C.F.R.

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

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7 Id.

8 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

9 Link v. Wabash, 370 U.S. 626, 633-634 (1962).
10 Haines, 673 F.Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32; Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 103, 131 (Comm'r Pat. 1891).
11 Link at 633-634.
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13 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.

thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

(Amended Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-582 (S. 1948 sec. 4732(a)(10)(A)).)

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 C.F.R. § 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.

ANALYSIS

With the original petition, Petitioner submitted the petition fee, the issue fee, and two statements of facts.

Petitioner asserted that upon the creation of the docketing database record that is associated with the present application, a member of his law firm's staff, Ms. Guilliano, incorrectly entered the present nonprovisional application as a provisional application.

Since this application was designated as a provisional application, the docketing system that Petitioner has in place automatically "assigned a one year expiration date from the

filing date"[14] to this application, and the present application was rendered "inactive" on the one-year anniversary of the application's filing date. As such, any entry that was made after September 16, 2003 would not be tracked, and no reminder would be generated for such an entry.

Put another way, once the application had been rendered inactive, the docketing software allowed subsequent entries to be made, but failed to generate a reminder for any entry that was placed into the system while the record was inactive[15]. Consequently, no reminder was generated to notify a member of the law firm to submit the maintenance fee subsequent to the receipt of the Notice of Allowance and Issue Fee Due[16].

As such, Petitioner has asserted that the entire period of delay occurred due to a docketing error. A delay resulting from a docketing error on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay.

Such a showing should identify the specific error[17], the individual who made the error, and the business routine in place for performing the action that resulted in the error. The showing must establish that the individual who erred was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care. The showing should include information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

As such, a docketing error on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

(1) the error was the cause of the delay at issue,

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14 Hollingsworth declaration of facts, paragraph 13.
15 Hollingsworth declaration of facts, paragraphs 11-12.
16 Id. at 7 and 9.
17 Petitioner must identify the error that caused the delay. If the specific error cannot be identified, Petitioner must identify any and all possible causes and prove that any of them, if they were the true cause, constitute unavoidable delay. A full and complete discussion for each possible error must be presented. Petitioner is reminded that he has the burden of proof.

(2) a business routine was in place for performing the clerical function that could reasonably be relied upon to avoid errors in its performance, and;
(3) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

See MPEP 711.03(c)(III)(C)(2).

An adequate showing should include (when relevant):
(1) statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them;
(2) a thorough explanation of the docketing and call-up system in use;
(3) identification of the type of records kept;
(4) identification of the persons responsible for the maintenance of the system;
(5) copies of mail ledger, docket sheets, filewrappers and such other records as may exist which would substantiate an error in docketing;
(6) include an indication as to why the system failed in this instance, and;
(7) information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

With both the original and this renewed petitions, Petitioner has identified the error that was the cause of the delay at issue, provided a thorough explanation of the docketing and call-up system in use, identified the type of records kept, provided copies of records as may exist which would substantiate an error in docketing, and included an indication as to why the system failed in this instance.

The decision on the original petition set forth six deficiencies in Petitioner's showing.

The first deficiency concerned the dates of Ms. Guilliano's employment with Petitioner's firm. With this renewed petition, Petitioner has indicated that a typographical error in Mr. Ackerman's declaration of facts set forth the wrong dates for Ms. Guilliano's employment. As such, on renewed petition, this

deficiency has been rectified, and it is clear that Petitioner's firm employed Ms. Guilliano during the time when this error occurred.

With this renewed petition, Petitioner has indicated that the present application was transferred to Dorsey in December of 2005, and it was at that time that the docketing record was created (and the erroneous designation of the present application as a provisional application occurred).

The second deficiency pertained to Petitioner's failure to provide statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them, in that a statement was not provided from the individual who mischaracterized this application as a provisional application when initially entering this application's pertinent information into the firm's docketing system. With this renewed petition, nothing has changed, in that a statement from Ms. Guilliano has not been provided. Without the submission of a statement from this individual, Petitioner will not be able to establish that the entire period of delay was unavoidable.

Although Petitioner has suggested that it is possible that Ms. Guilliano confused the present application with a provisional application to which the present application claims priority (and thus entered the present application as a provisional application), this amounts to mere speculation. It is also possible that Ms. Guilliano intentionally entered this application as a provisional application, or perhaps she became confused due to an inadequate understanding of the system and/or inadequate training. Without a statement from Ms. Guilliano, there is no way of knowing why this error occurred.

The third deficiency pertained to Petitioner's failure to provide a showing that would establish that the docketing personnel were sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care. With this renewed petition, Petitioner has provided a statement from Ms. Love, who trained Ms. Guilliano on Dorsey's docketing systems.

Petitioner has not revealed the extent of the training provided to Ms. Guilliano. Was this an intensive series of sessions over several days or weeks? Was the training completed in a matter of minutes? Was she merely handed an instruction manual and

expected to read it? Was this training hands-on? Did she merely observe someone entering data into the system?

The fourth deficiency has been rectified with this renewed petition.

Regarding the fifth deficiency, the decision on the original petition set forth "Petitioner has failed to describe the supervision of the docketing personnel's work." On renewed petition, Petitioner has asserted that the declaration of Ms. Love addresses the "supervision of docketing personnel." The declaration of Ms. Love has been reviewed by the undersigned, and there does not appear to be any mention of the supervision of Ms. Guilliano's work in relation to the creation of the database records. The only review of her work that is mentioned in the Love declaration of facts appears in paragraph 7, pertaining to job responsibilities *other than the creation of docketing records*.

As such, it does not appear that anyone reviewed her work product; nobody ensured that all applications were properly entered into the docketing system. It does not appear that any checks were performed on the entry of these records that were used to assure proper execution of assigned tasks. As such, since docketing personnel were free to enter incorrect information that guaranteed that reminders would not be generated, it does not appear that the firm has in place a business routine which could reasonably be relied upon to avoid errors in its performance.

Regarding the sixth deficiency, Petitioner has asserted that once a file is inactive, the system does not prevent new docketing information from being added, "nor does it issue a warning regarding the status of the file or provide an indication that reports of newly entered deadlines will not be generated[18]." As such, the docketing system allows users to input information, and leads them to believe that a reminder will be generated when in fact this is not the case.

Petitioner has characterized this as a "latent flaw in the system," and has asserted that he is not required to put into place a business routine that is "perfect," but rather a business routine that "could reasonably be relied upon to avoid errors in its performance." This is indeed the correct standard - the implemented business routine need not be perfect, however

18 Hollingsworth declaration of facts, paragraph 11.

in order for a petitioner to successfully characterize the entire period of delay as unavoidable, the business routine that the petitioner has in place must be one that can reasonably be relied upon.

With the system that Petitioner has in place, once a file is created, if it is created as a provisional application, it will no longer issue reminders at crucial due dates, and will no longer "generate the docketing reports that are relied on by the attorneys to responding to USPTO actions in a timely fashion[19]" (which is the primary reason for the implementation of a docketing system).

As such, the mis-designation of an application as a provisional application will render the docketing system useless in regards to the tracking of all crucial due dates related to that application. Moreover, the docketing system will not warn the user that it is no longer operational, and will even allow the user to input additional information - thus giving the outward appearance to the user that it is functioning properly and that a reminder will be generated. This does not sound like a system that a reasonable person would rely upon to track important due dates concerning his most important business.

To further exacerbate the severity of the deficiency inherent in the system that Petitioner relies upon to track his most important business, in the tenth paragraph of the declaration of Ms. Love (supplied with this renewed petition), the declarant has set forth that she reviewed an "Audit Trail Report," and concluded that the database for this application was created on December 7, 2005 by Ms. Guilliano "as a provisional application *and was later updated that same day to properly indicate that the application was a non-provisional patent application file* (emphasis added)." As such, it appears that even if a user realizes that an application was incorrectly input as a provisional application, the ramifications of this action are "set in stone," and cannot be undone once this mis-designation occurs. Consequently, it is clear that the business routine that the firm has in place cannot reasonably be relied upon to avoid errors in its performance.

On December 7, 2005, when this mis-designation occurred, was Ms. Guilliano aware of the extreme ramifications of the mis-designation of a non-provisional application as a provisional application? Did she appreciate the consequences of this mis-

19 Hollingsworth declaration, submitted with original petition, paragraph 15.

characterization of the application? If not, why not? Was this not covered in her training? If so, why would she try to correct the mis-designation, when she either knew or should have known that correction would be futile, and the docketing system had been rendered useless in regards to the tracking of all crucial due dates related to this application? Did she contact anyone to inform them that she had rendered the docketing system useless in regards to the tracking of all crucial due dates related to this application? If not, why not? Even if she had, what could have been done to rectify this matter?

Finally, it is noted that the docketing record was rendered effectively useless in regards to the tracking of all crucial due dates related to that application upon its creation on December 7, 2005. As such, at no time did the docketing system ever track a due date for any Office action placed therein.

However, a non-final Office action was mailed to Dorsey on April 19, 2006, and a response from Petitioner was received on July 27, 2006. Similarly, a final Office action was mailed on October 25, 2006, and a Request for Continued Examination (RCE) was filed by Petitioner on January 26, 2007.

Each of these entries occurred subsequent to September 16, 2003, and as such, the docketing system did not generate reminders for either of these entries. How did Petitioner know to submit these two responses, if the docketing system was inoperative in regards to the generation of reminders?

Petitioner has asserted that the issue fee payment was not timely submitted because the docketing system was rendered inoperative on December 7, 2005, however Petitioner was able to respond to these two Office communications, despite the fact that the docketing system that he relied upon failed to generate reminders. Why was he able to respond to these two Office communications, but not the Notice of Allowance and Issue Fee Due?

Petitioner has not established that the entire period of delay was unavoidable. As such, the present petition must be **DISMISSED.**

Any request for reconsideration of this decision under 37 C.F.R. § 1.137(a) must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. Failure to respond will result in abandonment of the application. The request for reconsideration

should include a cover letter entitled "Second Renewed Petition under 37 C.F.R. § 1.137(a)," and should only address the deficiencies noted in this decision.

It does not appear that Petitioner will be able to establish that the entire period of delay was unavoidable. **Petitioner's only relief is a petition under 37 C.F.R. §1.137(b), and - having been made aware of this reality - any delay in promptly seeking relief under 37 C.F.R. §1.137(b) may be considered evidence of intentional delay and an absolute bar to revival.**

Any further submission should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[20], hand-delivery[21], or facsimile[22].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[23]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

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20 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
21 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
22 (571) 273-8300- please note this is a central facsimile number.
23 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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
250 PARK AVENUE
NEW YORK NY 10177

COPY MAILED

FEB 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Kaufman Arie et al.	:	
Application No. 10/246,070	:	DECISION ON PETITION
Filed: September 16, 2002	:	UNDER 37 C.F.R. § 1.137(B)
Attorney Docket Number:	:	
035442/US - 479456-00065	:	
Title: COMPUTER ASSISTED	:	
DETECTION OF LESIONS IN	:	
VOLUMETRIC MEDICAL IMAGES	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b)[1], filed on January 3, 2008, to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue fee in reply to the Notice of Allowance and Issue Fee Due, mailed April 17, 2007, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[2]. Accordingly,

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1 A grantable petition pursuant to 37 C.F.R § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2 See MPEP § 710.02(e).

the above-identified application became abandoned on July 18, 2007. A Notice of Abandonment was mailed on August 16, 2007.

An original petition pursuant to 37 C.F.R. § 1.137(a) was filed on August 24, 2007, and was dismissed via the mailing of a decision on October 11, 2007. A renewed petition pursuant to 37 C.F.R. § 1.137(a) was filed on November 16, 2007, and was dismissed via the mailing of a decision on December 21, 2007.

With the original petition pursuant to 37 C.F.R. § 1.137(a), Petitioner submitted the issue fee. With this petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. A terminal disclaimer is not required.

As such, the petition under 37 C.F.R. § 1.137(b) is **GRANTED**.

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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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 any further action(s) of Petitioner.

UNITED STATES 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. Seven

Darrell Metcalf
905 N. Oak Avenue
Fillmore CA 93015

COPY MAILED

SEP 26 2006

OFFICE OF PETITIONS

In re Application of	:	
Darrell J. Metcalf	:	
Application No. 10/246,073	:	
Filed: September 19, 2002	:	DECISION ON PETITION
Title: HIJACK DISABLING SYSTEM	:	UNDER 37 C.F.R. §1.181(A)
FOR COMMERCIAL AIRCRAFT AND	:	
OTHER VEHICLES	:	

This is a decision on the petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on January 19, 2005.

The Office regrets the period of delay in issuing this decision.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 26, 2004, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on June 27, 2004. A notice of abandonment was mailed on December 14, 2004.

With this petition, Petitioner has included a copy of the response, along with the copy of his certificate of mailing, which is dated June 18, 2004. Petitioner has also indicated that the response contains an incorrect serial number: 10/144,301. It is noted that the response contains the correct filing date, Examiner name, and art unit.

The electronic file of this alternate application has been reviewed, and this response has not been located.

Petitioner is reminded that errors such as occurred can result in loss of rights and care must be taken to avoid such.

The certificate of mailing evinces that submission was timely submitted to the Office. 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 notify the Examiner of this decision, so that the response to the non-final Office action can be processed.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060217

DATE : February 17, 2006

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction on Patent No.: 6,976,235

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:

JACK CHIANG
SUPERVISORY PATENT EXAMINER

SPE: Jack Chiang **Art Unit** 2825

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CARSTENS YEE & CAHOON, LLP
P O BOX 802334
DALLAS TX 75380

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FEB 25 2004

OFFICE OF PETITIONS

In re Application of
Masaya Tajima et al.
Application No. 10/246,126
Filed: September 18, 2002
Attorney Docket No. CONDA.00004

ON PETITION

This is a decision on the petition filed January 12, 2004, under 37 CFR 1.137(a)[1] to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition under 37 CFR 1.137(b)" Alternatively, a petition to withdraw the holding of abandonment under 37 CFR 1.181may be in accordance. This is not a final agency decision.

The application became abandoned on July 4, 2003, for failure to timely file the Restriction Requirement mailed June 3, 2003 and which set a one (1) month period for reply. This decision precedes the Notice of Abandonment.

Petitioners assert that the Restriction Requirement mailed on June 3, 2003, was never received. In support, petitioners have included a declaration from the Attorney of Record stating that no entry was found in counsel's docketing system for the Office Communication mailed June 3, 2003. This decision will address the argument under 37 CFR 1.181 and 37 CFR 1.137(a).

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Petitioners assert that the Restriction Requirement mailed on June 3, 2003, was never received. A review of the record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This

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[1] A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[2] The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g. if the practitioner has a history of not receiving Office actions).

Petitioner has not substantiated the claim of non-receipt with any evidence that would prove to the satisfaction of the Commissioner that the Notice mailed June 3, 2003 was not received. Petitioners have not presented a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed. The showing of record therefore is insufficient to warrant withdrawal of the holding of abandonment.[3]

PETITION UNDER 37 CFR 1.137(a)

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[4] 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.[5]

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[2]M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

[3]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).

[4]35 U.S.C. § 133.

[5]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,

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[6] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessar for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[7] Since copies from the docketing system have not been provided, it can't be ascertained whether an unforseen circumstance occurred or not.

As petitioners have provided no showing of evidence to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

ALTERNATIVE VENUE

Petitioners may wish to consider filing a renewed petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after 8 June, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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 related to this matter should be directed to the undersigned

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316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[6]See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

[7]Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Petitions Attorney at 703-305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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CARSTENS YEE & CAHOON, LLP
P O BOX 802334
DALLAS TX 75380

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JUL 2 0 2004

OFFICE OF PETITIONS

In re Application of :
Masaya Tajima et al. :
Application No. 10/246,126 : ON PETITION
Filed: September 18, 2002 :
Attorney Docket No. CONDA.00004 :

This is a decision on the request for reconsideration filed March 15, 2004, under 37 CFR 1.137(a)[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on July 4, 2003, for failure to timely file the Restriction Requirement mailed June 3, 2003 and which set a one (1) month period for reply. In a petition filed January 12, 2004, petitioners asserted that the Restriction Requirement mailed on June 3, 2003, was never received. In support, petitioners included a declaration from the Attorney of Record stating that no entry was found in counsel's docketing system for the Office Communication mailed June 3, 2003 however, copies of the docket records were not submitted. The petition was dismissed in a decision mailed February 25, 2004.

PETITION UNDER 37 CFR 1.137(a)

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[2] Decisions on reviving abandoned applications on

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137©)).

[2]35 U.S.C. § 133.

the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[3]

The file record discloses that the Office Action mailed June 3, 2003 was mailed to the address of record. However, petitioner contends that it was not received. In support of this contention, a statement made by Colin P. Cahoon, attorney of record, explaining the docketing procedure, including a page from the docketing system, wherein receipt of the Restriction Requirement would have been entered, had it been received, accompany the request for reconsideration. The statement and attachments corroborate non-receipt of the Restriction Requirement.

In view of the facts set forth in the petition, it is concluded that the Office Action mailed June 3, 2003 was never received and the delay in responding was unavoidable.

Receipt of the response to the Restriction Requirement on January 21, 2004 is acknowledged.

This application is being forwarded to Technology Center 2813 for a review of the response to the restriction requirement and for further examination.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703)305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[3] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

WILEY HORTON
215 SOUTH MONROE STREET
2ND FLOOR
TALLAHASSEE, FL 32301

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FEB 27 2008

OFFICE OF PETITIONS

In re Application of :
James S. Chester :
Application No. 10/246,128 : ON PETITION
Filed: September 16, 2002 :
Attorney Docket No. None :

This is a decision on the petition, filed September 10, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to a final Office action mailed December 1, 2006. No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on March 2, 2007. This decision precedes the mailing of a Notice of Abandonment.

Petitioner seeks revival solely for obtaining copendency with continuing application No. 11/899,467 filed September 6, 2007, in that the necessary continuity inadvertently was not maintained at that time.

Since this application is being revived for purposes of continuity with application No. 11/899,467, and continuity having been established by this decision reviving the above-captioned application, the above-captioned application is again abandoned in favor of the continuing application.

Telephone inquiries concerning this decision should 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
WASHINGTON, D.C. 20231
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Paper No. 3

MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FOURTH FLOOR
720 WATER STREET
TOLEDO OH 43604-1619

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DEC 0 4 2002

OFFICE OF PETITIONS

In re Application of	:	
Paul Friedli	:	
Application No. 10/246,134	:	DECISION DISMISSING
Filed: 19 September, 2002	:	PETITION
Attorney Docket No. 16022	:	

This is a decision on the petition under 37 CFR 1.10(c) filed on 13 November, 2002, requesting that the above-identified application be accorded a filing date of 18 September, 2002, rather than the presently accorded filing date of 19 September, 2002.

The petition is dismissed.

Petitioner alleges that the application was deposited in Express Mail service on 18 September, 2002. In support, petitioner provided a copy of Express Mail Customer Label No. EV137893278US (the same Express Mail number listed on the application transmittal letter). The "date-in" on the Express Mail Customer Label has not been completed, however.

Paragraph (c) of 37 CFR 1.10 states that:

> Any person filing correspondence under 37 CFR 1.10 that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show 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 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 papers or fees 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.

The petition lacks item (3). As the Express Mail mailing label does not have the "date-in" completed or other official notation by the USPS, the USPTO cannot verify the date that the application was deposited in USPS Express Mail. The USPS Internet printout showing the Express Mail shipment was delivered to the USPTO on 19 September, 2002, is not persuasive evidence that it was deposited USPS on 18 September, 2002, because the printout does not show the date that the application was deposited in Express Mail. Petitioners should consider requesting official documentation from the USPS showing the date the Express Mail package was deposited in Express Mail with the USPS.

Petitioners should also note that there is no provision in the rules for a certificate of mailing by "Express Mail".[1] Furthermore, the application transmittal sheet, at best, evidences what petitioners intended to file, not what was filed or received in the Office on 18 September, 2002. Petitioner's postcard receipt is similarly unpersuasive that the application is entitled to a filing date of 18 September, 2002, because the postcard bears an Office-date stamp of 19 September, 2002, the date of receipt in the Office.

In summary, in the absence of convincing evidence of the date of deposit, the application must be accorded a filing date as of the date of receipt in the USPTO.[2] The filing date will therefore remain as 19 September, 2002.

The application is being forwarded to Technology Center 2800 for examination in due course using the presently-accorded filing date of 19 September, 2002.

---

[1]The requirement of 37 CFR 1.10(d) for a certificate of mailing by "Express Mail" has been waived by the Commissioner. See 1174 O.G. Pat. Of. 92 (May 16, 1995).

[2]37 CFR 1.6(a).

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

1/18/08

Patent No. : RE37818
Inventor(s) : Steven V. Holsinger
Issued : 8/13/02
Title : HARD SECTORING CIRCUIT AND METHOD FOR A ROTATING DISK DATA STORAGE DEVICE
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 the proposed certificate of correction does not comply with 37CFR 1.177(a). It does not identify each reissue application by application by relationship, application number, and filing date. 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

DISCOVISION ASSOCIATES
INTELLECTUAL PROPERTY DEVELOPMENT
P.O. BOX 19616
Irvine, California 92623

HR/CBN

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Alexandria, VA 22313-1450
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MAR 0 5 2007

OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
PO BOX 10395
CHICAGO IL 60610

In re Application	:	
Shigetaka, et al.	:	
Application No. 10/246,177	:	DECISION ON APPLICATION
Filed: September 18, 2002	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 9281-4385	:	

This is a decision on the "PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT", filed December 28, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be increased from the currently accorded three hundred twenty-five (325) days to seven hundred six (706) days.

For the reasons set forth below, a decision on the request for reconsideration of the patent term adjustment indicated on the patent is being **HELD IN ABEYANCE** until after the actual patent date.

Applicants are given two months from the issue date of the patent to request reconsideration of the patent term adjustment indicated on the patent application. Applicants may seek such reconsideration without payment of the fee. A copy of this decision should accompany applicant's written request for reconsideration.

On October 4, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is three hundred twenty-five (325) days. On December 28, 2006, Applicants timely[1] submitted the instant application for patent term adjustment.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of three hundred twenty-five (325) days based on an adjustment of two hundred ninety-five (295) days of PTO delay pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) and one hundred twenty-nine (129) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. §1.703(a)(2), reduced by applicants' delays of thirty-three (33), thirty-two (32), and thirty-four (34) days, all pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). All periods of adjustment have been reviewed and found to be correct.

However, applicants assert additional PTO delay for the failure on the part of the Office to issue the patent within three years of its filing. The Office will be able to assess whether or not any additional PTA is accorded once the issue date is established.[2]

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **three hundred twenty-five (325) days** (424 (295+129) days of PTO delay, reduced by 99 (33+32+34) days of applicant delay).

Receipt of the $200 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

---

[1] Applicants filed the application for patent term adjustment prior to paying the issue fee.

[2] Applicants should note that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period of pendency before the Office except for periods excluded under 35 U.S.C. (b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A).

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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)
6755334	2004-06-29	10246180	2002-09-18	14185.0100

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	/laura zeman/	Date (YYYY-MM-DD)	2008-08-20
Name	Laura J. Zeman	Registration Number	36078

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6755334
Issue Date: June 29,2004
Application No. 10246180
Filed: September 18,2002
Attorney Docket No. 14185.0100

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 20,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 20,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

1/14/08

Patent No. :Re39239
Ser. No. : 10246183
Inventor(s) :Cesare Busetti et al.
Issued : 8/15/06
Title : METHODS FOR TREATING EARLY MORNING PATHOLOGIES
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
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.

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

TOWNSEND AND TOWNSEND
12730 HIGH BLUFF DRIVE, SUITE 400
SAN DEIGO, CALIFORNIA 92130

HR

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JONATHAN M. WALMAN
WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
PHILADELPHIA, PA 19103

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JUN 23 2006

OFFICE OF PETITIONS

In re Application of :
Azhar I. Khan :
Application No. 10/246,185 : DECISION ON REQUEST
Filed: September 17, 2002 : TO WITHDRAW
Attorney Docket No. BELL-0180/02156 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §1.36(b), filed August 9, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Jonathan M. Waldman and all the other attorneys/agents of record associated with Customer No. 38952 was revoked by the assignee of the patent application on November 23, 2005. Accordingly, the request to withdraw under 37 CFR §1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

There is no outstanding Office action that requires a response by applicant.

Telephone inquires concerning this decision should be directed to Sherry D. Brinkley at 571-272- 3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee:

cc: LEE & HAYES, PLLC
421 W. RIVERSIDE AVE.
SUITE 500
SPOKANE WA 99201

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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OFFICE OF PETITIONS

LUCAS & MERCANTI
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK NY 10016

In re Application of :
Hisao Hosaya et al :
Application No. 10/246,192 : ON PETITION
Filed: September 18, 2002 :
Attorney Docket No. SUZ-21 :

This is a decision on the petition, filed February 27, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 16, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3651 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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAR 16 2007

OFFICE OF PETITIONS

LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK NY 10016

In re Application of :
Hisao Hosoya et al. :
Application No. 10/246,192 : ON PETITION
Filed: September 18, 2002 :
Attorney Docket No. SUZ-21 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 20, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure s to timely pay the issue (Part B-Fee Transmittal) on or before June 21, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed March 21, 2006, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 22, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the issue fee (Part B-Fee Transmittal); (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being forwarded to the Office of Publications for processing into a patent.

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

Paper No. 6

CHIRON CORPORATION
Intellectual Property - R440
P.O. Box 8097
Emeryville CA 94662-8097

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FEB 11 2003

OFFICE OF PETITIONS

In re Application of
Van Nest, et al.
Application No. 10/246,195
Filed: September 17, 2002
Attorney Docket No. 85.123
For: ADJUVANT FORMULATION COMPRISING A SUBMICRON OIL DROPLET EMULSON

DECISION GRANTING PETITION

This is a decision on the petition, filed December 16, 2002, requesting review of the Office's determination that page 41 was omitted on initial filing. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on September 17, 2002. On October 16, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that page 41 of the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that page 41 be accorded a filing date of September 17, 2002 on the basis that the entire specification, including allegedly missing page 41, was received in the Patent and Trademark Office (PTO) on September 17, 2002. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing September 17, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 66 pages of specification. A review of the application as filed reveals that there are 65 pages present. Page 41 is missing.

The return postcard constitutes *prima facie* evidence that the entire specification, including missing page 41, was filed on September 17, 2002. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioners' authorization, the $130.00 petition fee will be credited to deposit account, no. 03-1664.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of September 17, 2002, using the copy of page 41 supplied with the petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES 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 18 2005

WAK

In re Application of	:	
Noe et al.	:	
Serial Number: 10/246,253	:	DECISION
Filed: September 18, 2002	:	ON
For: All-Sided Mouthbrush	:	PETITION
	:	

This is a decision on PETITION TO EXPUNGE, filed March 19, 2004, which has been accepted as a timely petition under 37 C.F.R. 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center 1700 for consideration.

DECISION

Petitioner requests that the response to non-compliant amendment filed on February 23, 2004 be stricken from the record and expunged from the file. At the time such paper was filed, the power of attorney for the previous attorney of record had been revoked and the PTO was erroneously mailing actions to the previous attorney of record when the PTO records reflect the fact that the power of attorney was revoked.

The petition is **GRANTED**.

Section 1.59 has been amended to eliminate references to returning documents that have been expunged to recognize that, with electronic Official files, there will be nothing to return when a paper is expunged.

The images of the documents have been removed from the Official file.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Stephen L. Peterson
Finnegan, Henderson, Farabow,Garrett & Dunner, L.L.P.
901 New York Avenue, NW
Washington, DC 20001-4413

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

STEVEN W. WEINRIEB
SCHWARTZ & WEINRIEB
2001 JEFFERSON DAVIS HIGHWAY
CRYSTAL PLAZA ONE, SUITE 1109
ARLINGTON VA 22202

In re Application of
Chojnacki, Andrzej et al
Application No. 10/246277
Filed: September 18, 2002
Attorney Docket No. 13835

AUG 10 2007

DECISION ON PETITION

This is a decision on the Petition To Revive Application Abandoned by USPTO Error under 37CFR 1.181, received in the United States Patent & Trademark Office (USPTO) on June 5, 2007.

The petition is **DISMISSED**. Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO (2) MONTHS from the mail date of this decision.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due mailed March 8 2007. The Notice of Abandonment, mailed on April 05, 2007 indicates, "The submitted fee of $1,400 is insufficient. A balance of $1,400 is due for. The issue fee required by 37 CFR 1.18 is $300. The publication fee, if required by 37 CFR 1.18(d) is $300."

The Office acknowledges receipt of Part B – Fee(s) Transmittal on March 08, 2007, authorizing that the Issue Fee be charged to Deposit Account No. 23-0818. On March 12, 2007, when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account.

37 CFR 1.25 (a) and (b), which states in part:

> 1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."
>
> 1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover

In light of the non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail:
Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision matter may be directed to the undersigned at 703 308-9250 Ext153..

Cheryl P. Mcleod
Quality Operations Assistant
Office of the Director
Office of Patent Publications

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Steven W. Weinrieb
Law Office of Steven W. Weinrieb
8717 Cold Spring Road
Potomac, MD 20854

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JUN 17 2009

OFFICE OF PETITIONS

In re Application of :
Andrzej Chojnacki, et. al. :
Application No. 10/246,277 : DECISION ON PETITION
Filed: September 18, 2002 :
Attorney Docket No. 13835 :

This is a decision on the renewed petition under 37 CFR 1.181, filed October 9, 2007. This is also a decision on the petition under 37 CFR 1.137(b), filed May 1, 2009, to revive the above-identified application.

Petitioner argues that the issue fee, publication fee and formal drawings were all timely filed on March 8, 2007.

A review of the record reveals that petitioner's deposit account was charged $300 for payment of the publication fee and $33 for eleven advanced soft copies on March 12, 2007. However, on March 12, 2007, petitioner's deposit account contained insufficient funds to process payment of the issue fee (See 37 CFR 1.25(a)). Therefore, the renewed petition under 37 CFR 1.181 is properly **DISMISSED**.

The petition filed May 1, 2009 satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,510 for payment of the issue fee; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Change of Correspondence Address received on May 1, 2009 has been accepted and made of record[1].

This application file is being referred to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions .

[1] Petitioner provided the Office with a copy of the postcard receipt that shows a Change of Attorney Address was received in the United States Patent and Trademark Office on May 5, 2008, but was subsequently misplaced.

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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OSHA LIANG LLP
1221 MCKINNEY ST
SUITE 2800
HOUSTON TX 77010

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JAN 2 6 2006

OFFICE OF PETITIONS

In re Application	:	
Anzawa, et al.	:	
Application No. 10/246,287	:	DECISION ON APPLICATION
Filed: September 18, 2002	:	FOR
Attorney Docket No. 04995.074001	:	PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" filed September 12, 2005. Applicants requests that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to two hundred forty (240) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

BACKGROUND

On July 11, 2005, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date is 0 days.

In response, Applicants timely filed the instant request for reconsideration of the patent term adjustment along with payment of the fee set forth in 37 C.F.R. § 1.18(e)[1]. Applicants request that the patent term adjustment be corrected to two hundred forty (240) days. Applicants contend that a PTO delay of two hundred eighty (280) days should have been assessed because the Office did not mail a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 until August 25, 2004. Furthermore, Applicants point out that they should have been assessed applicant delay of forty (40) days for filing a supplemental reply on June 28, 2005, pursuant to 37 C.F.R. § 1.704(c)(8).

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

RELEVANT STATUTES AND REGULATIONS

35 U.S.C. 154(b)(1)(A)(i)(I) provides for patent term adjustment:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to –
>
> > (i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after
> >
> > > (I) the date on which an application was filed under section 111(a) of this title;

37 C.F.R. § 1.702(a)(1) provides that:

> (a) Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> > (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the

---

[1] PALM records indicate that the Issue Fee was filed October 11, 2004.

application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

37 CFR § 1.703(a)(1) provides, in pertinent part, that:

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(2) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

OPINION

Applicants filed the application on September 18, 2002, with a declaration directing the Office to mail all correspondence to: Rosenthal & Osha, 700 Louisiana, Suite 4550, Houston TX 77002. However, the application transmittal listed another address: Rosenthal & Osha, 1221 McKinney St, Suite 2800, Houston TX 77010. On September 9, 2003, the Office mailed a non-final Office action to an unrelated law firm in Massachusetts. On June 25, 2004, the Office properly mailed the non-final Office action to the law firm of Rosenthal & Osha at the address specified in the declaration.[2] However, the Office action was returned to the Office as "undeliverable" by the postal service. Accordingly, a subsequent non-final Office action was mailed on August 25, 2004, this time to the address listed on the transmittal letter.

In this case, the subsequent mailing of another non-final Office action does not alter the date used in calculation of the period of adjustment. It has not been shown that this re-mailing was due to any error on the part of the Office in mailing the first non-final Office action to Applicants. Thus, the patent term adjustment with respect to the non-final Office action is calculated from November 19, 2003 to June 25, 2004, or a period of two hundred twenty (220) days of PTO delay.

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[2] When more than one correspondence address is specified, such as one in the declaration and one in a transmittal letter, the Office will determine which one to establish as the correspondence address on a case by case basis. See MPEP 403.

As Applicants did not file a response until November 16, 2004, applicant delay of fifty-two (52) days should have been assessed pursuant to 37 C.F.R. § 1.704(b).

However, since the Office action mailed on August 25, 2004 restarted the period for reply, applicants should not have been assessed any delay for timely filing their response on November 16, 2004.

Lastly, the Office calculation of thirty-one (31) days of applicant delay was proper. A final Office action was mailed on February 28, 2005. Accordingly, pursuant to 37 C.F.R. §1.704(b), Applicants had until May 28, 2005 to mail a proper reply to the final Office action. Applicants filed an amendment on May 19, 2005. However, by Advisory Action mailed May 31, 2005, Applicants were advised that the amendment would not be entered because it failed to place the application in condition for allowance. Applicants did not file a proper amendment until June 28, 2005, and pursuant to 37 C.F.R. § 1.704(b), were properly assessed applicant delay of thirty-one (31) days.

CONCLUSION

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **one hundred eighty-nine (189) days** (220 days of PTO delay and 31 days of applicant delay).

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 50-0591, as authorized.

The application is being forwarded to the Office of Patent Publication for issuance of the application.

Telephone inquiries regarding this matter should be directed to Petitions Attorney Cliff Congo at (571)272-3207.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen

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Paper No. 9

MORRISON & FOERSTER LLP
3811 VALLEY CENTRE DRIVE
SUITE 500
SAN DIEGO CA 92130-2332

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JUN 19 2003

OFFICE OF PETITIONS

In re Application of	:	
Michael L. Gruenberg	:	
Application No. 10/246,293	:	DECISION REFUSING STATUS
Filed: 17 September, 2002	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. 549172000600	:	

This is in response to the petition filed on 12 May, 2003, under 37 CFR 1.47(b).

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(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 17 September, 2002, without an executed oath or declaration. Accordingly, on 14 January, 2003,[1] Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application

[1] A Notice to File Missing Parts requiring an executed oath or declaration and a surcharge for its late filing as well as replacement drawings was mailed on 22 October, 2002. Replacement drawings were supplied on 1 November, 2002, and a review of Office records reveals that the replacement drawings have been processed. The Notice mailed on 22 October, 2002, was withdrawn on 14 January, 2003, and a new Notice to File Missing Parts was mailed.

requiring an oath or declaration and a surcharge for its late filing, a two (2) month period for reply was set.

In response, on 12 May, 2003, petitioners filed a two (2) month extension of time in accordance with 37 CFR 1.136(a) as well as the present petition. Petitioners assert that a copy of the declaration was sent to inventor Gruenberg, but he has refused in writing to sign the declaration.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

The petition lacks items (2) and (5).

In regards to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. Specifically, the declaration is defective in that it contains a non-dated/non-initialed alteration in the signature block of the corporate officer signing on behalf of and as agent for the non-signing inventor.[2]

In regards to item (5), petitioners have not shown sufficient proprietary interest in the subject matter to justify filing of the application under 37 CFR 1.47(b).[3] Although petitioner has cited assignments of a provisional application from the sole inventor to MedCell Biologics, Inc., and MedCell Biologics, Inc., to MedCell Biologics, Ltd., the assignments reference Application No. 60/322,626. The present application, however, is a nonprovisional application, and petitioner has not presented evidence of a proprietary interest in the present application.

---

[2] See 37 CFR 1.52(c).

[3] MPEP 409.03(f).

Petitioners may provide proof by showing a copy of the employment agreement between the non-signing inventor and the Rule 1.47(b) applicant (company); a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 1.47(b) applicant, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 1.47(b) applicant.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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DW 08-03

Paper No. 12

MORRISON & FOERSTER LLP
3811 VALLEY CENTRE DRIVE
SUITE 500
SAN DIEGO CA 92130-2332

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AUG 2 8 2003

OFFICE OF PETITIONS

In re Application of :
Michael L. Gruenberg :
Application No. 10/246,293 : DECISION ACCORDING STATUS
Filed: 17 September, 2002 : UNDER 37 CFR 1.47(b)
Attorney Docket No. 549172000600 :

This is in response to the request for reconsideration filed on 21 August, 2003 (certificate of mailing date 19 August, 2003), under 37 CFR 1.47(b).

Petitioner has shown that the non-signing joint inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, petitioners have provided a copy of the letter transmitting the application papers to the non-signing inventor at his last known address. Petitioners have also supplied an E-mail from the non-signing inventor in which he states that he will not sign the applications. In addition, petitioners have provided a legal memorandum establishing that MedCell Biologics, LLC, has a proprietary interest in the above-identified application. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and has demonstrated that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(b), this Office will forward notice of this application's filing to the non-signing inventors. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 1600 for examination in due course.

Telephone inquiries regarding this communication should be directed to the undersigned at 703.308.6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DW 08-03

Michael Gruenberg
14665 Deerwood Street
Poway, CA 92064

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AUG 2 8 2003

OFFICE OF PETITIONS

In re Application of
Michael Gruenberg
Application No. 10/246,293
Filed: 17 September, 2002
For: CELL THERAPY SYSTEM

Dear Mr. Gruenberg:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 703 308-6918. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

MORRISON & FOERSTER LLP
3811 VALLEY CENTRE DRIVE
SUITE 500
SAN DIEGO CA 92130-2332

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. 23

SHERRY M. KNOWLES
KING & SPALDING
45TH FLOOR
191 PEACHTREE STREET
ATLANTA GA 30303

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NOV 0 5 2004

OFFICE OF PETITIONS

In re Application of
Douglas A. Collins et al.
Application No. 10/246,300
Filed: September 17, 2002
Attorney Docket No. 07959.105043

ON PETITION

This is a decision on the petition, filed October 21, 2004, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **granted**.

This application became abandoned on February 15, 2004, for failure to timely submit a substitute CRF copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), (f), (g), 1.825(b), or (d), as required by the Notice to Comply with Requirements for Patent Applications Containing Nucleotide

[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)).

Sequence and/or Amino Acid Sequence Disclosures, filed December 15, 2003.[2] The Notice set a two (2) month period for reply. Accordingly, a Notice of Abandonment was mailed September 15, 2004.

The application is being forwarded to the Office of Initial Patent Examination for further pre-examination processing.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[2]The Notice mailed December 15, 2003 indicated that a copy of the "Sequence Listing" in computer readable form had been submitted but the computer readable form did not comply with the requirements of 37 CFR 1.822 and/or 1.823.

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Mailed : SEP 2 4 2004

wak
Paper Number //

In re Application of		:	DECISION
Bank et al.		:	ON PETITION
Serial No.:	10/246,306	:	
Filed :	September 18, 2002	:	
For:	Compositions for Enhanced Thermal Bonding	:	

This is a decision on a petition under 37 CFR 1.144 filed February 23, 2004 requesting to have entry of claims 24-27 that were cancelled without authorization by Examiner's amendment. The Examiner's amendment mailed January 21, 2004 fails to indicate any authorization of changes Entry of claims 24-27 is requested pursuant to an amendment filed under 37 CFR 1.312.

The application was filed with a total of 23 claims, including three independent claims and 20 dependent claims. A restriction requirement was mailed on December 04, 2002 dividing 23 claims into eight separate and distinct inventions.

Group I contains claims 1-10 drawn to a composition classified in class 25 or 528.

Group II contains claims 11 and 12 drawn to a fiber and yarn made from a composition of claim 1 classified in class 428 subclass 364.

Group III contains claims 13 and 14 drawn to a woven fabric classified in class 442.

Group IV contains claim 15 drawn to a fiber comprising blend classified in class 428, subclass 374.

Group V contains claims 16-18 drawn to a core sheath fiber classified in 428 subclass 373.

Group VI contains claim 19 drawn to a fiber having a blend classified in class 428 subclass 370.

Group VII contains claim 20, drawn to a side by side fiber classified in class 428 subclass 373.

Group VIII contains claims 21-23 drawn to a sheath core fiber having a blend of claim 27 classified in class 428 sub class 374.

If group I was elected applicant was required to elect a single disclosed species from claims 4 and 5.

If group V was elected, applicant was required to elect a single disclosed species from claim 17.

If group VIII was elected, applicant was required to elect a single disclosed species of claim 22

Applicants filed a response to restriction requirement and an amendment on December 17, 2002 electing the invention of Group II, which included claims 11 and 12. Applicants amended claims 11 and 12 by incorporating the limitations of the claim from which these claims depended, thereby placing claims 11 and 12 into independent form. Applicants also added new claims 24-27 which are dependent either directly or indirectly from claim 11 and cancelling claims 15-18.

It is noted that in a restriction requirement, the initial burden is on the Office to establish a *prima facie* case that (a) the claimed inventions are independent or distinct and (b) there would be a serious or undue burden on the examiner if restriction were not required. See MPEP 803. With respect to (a) above, the examiner's basis for the restriction was because these inventions were distinct and have acquired a separate status in the art as shown by their different classification. Claims 1-10 are drawn to a composition; claims 11& 12 are drawn to a fiber and yarn; claims 13 and 14 are drawn to a woven fabric; claim 15 to a blend; claims 16-18 to a core sheath fiber; claim 19 a fiber having a blend; claim 20 a side by side fiber and claims 21-23 drawn to a sheath coat fiber having a blend of claim 27.

Applicant's response was to traverse the restriction on the basis that there is no convincing evidence of eight sufficiently distinct inventions, nor is there convincing evidence of a need for additional searches to cover the various embodiments of the invention. Applicant further argues that there are only three independent claims that were originally filed in the subject application and each independent claim is generic to its respective dependent claims, there are, at most three independent inventions.

While applicant's arguments to the independent claims may be proper, it is improper to exclude the dependent claims from the picture since these claims, in fact, form an inseparable part of the restriction requirement. Because the applicants failed to address the limitations of the dependent claims, their argument relating to substantial overlap is incomplete as well as incorrect and is, therefore, unpersuasive. Hence, the applicants have not overcome the presumption that there would be a serious or undue burden to search and examine all the claims. In challenging the propriety of a restriction requirement, the applicants must address the totality of claims as encompassed by the restriction. When the dependent claims, such as the ones cited above, are taken into account, it is evident that the claims are not linked contrary to applicants' position.

In view of the above discussion, having weighed both the examiner's position and the applicants' arguments, it is concluded that, on the balance, the restriction is proper. The examiners cancellation of claims 24-27 without applicant's authorization was improper.

The petition is **GRANTED-IN-PART**.

The application is withdrawn from issue and claims 24-27 will be entered pursuant to amendment filed with this petition under 37 CFR 1.312. The application will be forwarded to the examiner for consideration of claims 11,12 and 24-27.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Melanie I. Rauch
Pauley Petersen & Erickson
2800 W. Higgins Road, Suite 365
Hoffman Estates, Illinois 60195

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:705

DATE : July 13, 2005

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction on Patent No.: 6740534

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.

E. James

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 Lebentritt

SPE: ~~John Niebling~~ **Art Unit** 2812

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

3M INNOVATIVE PROPERTIES
COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

In re Application of

Moreno, et al.

Application No. 10/246,355

Filed: September 18, 2002

Attorney Docket No. 56276US002

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed June 15, 2006.

The petition is **granted**.

This application was held abandoned October 7, 2005, after no reply was received to the non-final Office action mailed July 6, 2005. 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 7, 2005. A Notice of Abandonment was mailed June 7, 2006. The instant petition was filed on June 15, 2006. Petitioner maintains that the notice of October 7, 2005, was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 1700, GAU 1771 for further processing that may include remailing the non-final Office action and resetting of the period for reply.

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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CSA LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN, TX 78759

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MAR 14 2006

OFFICE OF PETITIONS

In re Application of

Noon, et al.

Application No. 10/246,356

Filed: September 18, 2002

Attorney Docket No. VRT0023US

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on December 29, 2005, after the Office was allegedly unable to charge the designated deposit account for the issue fee. A Notice of Allowance and Issue Fee was mailed on September 28, 2005, requiring payment of the issue fee and allowing a statutory period for reply of three months from its mailing date. On November 3, 2005, petitioner filed Form PTOL 85B and authorized the issue fee to be charged to Deposit account 50-2306. On November 3, 2005, an attempt was allegedly made to charge deposit account 50-2306 for the issue fee. A determination was made that there were insufficient funds in the deposit account on November 3, 2005, to charge the issue fee. A Notice of Abandonment was mailed on February 2, 2006.

The instant petition was filed on February 16, 2006. Petitioner maintains that deposit account 50-2036 had sufficient funds in it on November 3, 2005, to cover the issue fee. As evidence of the same, petitioner provided a copy of the "Deposit Account Statement" for deposit account 50-2306 for the month of November 2005. The "Deposit Account Statement" demonstrates that deposit account 50-2306 had sufficient funds in it on November 3, 2005, to cover the issue fee payment. Petitioner has established that the holding of abandonment was improperly imposed. The holding of abandonment is withdrawn, accordingly.

No petition fee is due.

Deposit account 50-2306 will be charged $1400.00 for the issue fee.

The application file is being forwarded to the Office of Patent Publications for further processing.

Inquiries regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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ROCHE PALO ALTO LLC
PATENT LAW DEPT. M/S A2-250
3431 HILLVIEW AVENUE
PALO ALTO CA 94304

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DEC 0 5 2007

OFFICE OF PETITIONS

In re Application of :
Milan Radoje Uskokovic :
Application No. 10/246,359 : DECISION ON PETITION
Filed: September 18, 2002 :
Attorney Docket No. R0103B-REG :

This is a decision on the petition under 37 CFR 1.137(b), filed May 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed September 26, 2006, and no extensions of time were obtained under the provisions of 37 CFR 1.136(a), the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on November 27, 2006. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a request for continued examination, $790 filing fee, and submission as required by 37 CFR 1.114, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely file an appeal brief within the period provided by 37 CFR 41.37(a)(1) is accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $2,160 extension of time fee submitted on June 1, 2007 was subsequent to the maximum extendable period for reply, this

fee is unnecessary and will be credited to petitioner's deposit account in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Technology Center AU 1617 for processing the request for continued examination and for appropriate action in the normal course of business on the submission under 37 CFR 1.114 (and Information Disclosure Statement) received June 1, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

PET DEC

PTO/SB/83 (09-03)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/246370
Filing Date	09/16/2002
First Named Inventor	Hodges, A.
Art Unit	1753
Examiner Name	Noguerola, A.
Attorney Docket Number	LFSCAN.78C1DV1

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Approved NOV 30 2004
JMStone
Jacqueline M. Stone, Director
Technology Center 1700

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 20995

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: Assignee (LifeScan, Inc.) is assuming responsibility for prosecution of application

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	LifeScan, Inc.				
Address	1000 Gibraltar Drive				
Address					
City	Milpitas	State	CA	Zip	95035
Country	USA				
Telephone	408.956.4066			Fax	408.956.4404
Name	Rose M. Thiessen				
Signature			Registration No.	40,202	
Date	August 23, 2004		Telephone No.	619.235.8550	

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.

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MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS, FL 33410

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JAN 20 2006

OFFICE OF PETITIONS

In re Application of	:	
Jackowski	:	DECISION ON PETITION
Application No. 10/246,383	:	UNDER 37 CFR 1.137(b)
Filed: September 17, 2002	:	
Attorney Docket No. 2132.125	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 21, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on July 14, 2005, for failure to pay the issue fee and the publication fee as required by the Notice of Allowance and Fee(s) Due, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on October 25, 2005.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (571) 272-4200. Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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HOGAN & HARTSON L.L.P.
500 S. GRAND AVENUE
SUITE 1900
LOS ANGELES, CA 90071-2611

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JAN 11 2005

OFFICE OF PETITIONS

In re Application of :
Akinori Sato, et al. :
Application No. 10/246,389 : ON PETITION
Filed: September 18, 2002 :
Attorney Docket No. 81716.0100 :

This is a decision on the petition, filed December 28, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 26, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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 2821 for further processing of the request for continued examination under 37 CFR 1.114.

/Sherry D. Brinkley/
Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: " Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Mailed : AUG 3 2004

VJ

In re Application of		:	DECISION
Ho et al.		:	ON PETITION
Serial No.:	10/246,402	:	
Filed:	July 19, 2002	:	
For:	High density fractional slide	:	
	and preparation method thereof	:	

This is a decision on a petition under 37 CFR 1.84(a)(2), b(2) filed December 11, 2003 to accept color drawings.

It is noted that the applicants have met the requirements of:
(i) The fee set forth in § 1.17(h);
(ii) Three (3) sets of color drawings;
(iii) A black and white photocopy that accurately depicts, to the extent possible, the subject matter shown in the color drawing; and
(iv) An amendment to the specification to insert (unless the specification contains or has been previously amended to contain) the following language as the first paragraph of the brief description of the drawings:

> The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.

Accordingly, the petition is GRANTED.

Vasu Jagannathan
Technology Center 1700
Chemical and Materials Engineering

VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP
P. O. Box 34385
Washington DC 20043-9998

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OCT 15 2004

Platon N. Mandros
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

In re Application of:
Tatsuhiko Ikeda
Serial No.: 10/246,406
Filed: September 19, 2002
For: SEMICONDUCTOR DEVICE

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.181, filed August 31, 2004, to re-mail the Notice of Allowance and Fee(s) Due of August 6, 2004.

The petition is GRANTED.

A Notice of Allowance and Fee(s) Due (Notice of Allowance) was mailed August 6, 2004, setting a three-month statutory period for paying the issue fee and the publication fee.

Petitioner asserts that the Notice of Allowance mailed on August 6, 2004 was not received. To support this assertion, petitioner includes a statement by practitioner Ellen Marcie Emas that a search of the file jacket and docket records for the application indicates that the Notice of Allowance was not received and a copy of the practitioner's docket record, where the non-received Notice of Allowance would have been entered had it been received.

A review of the written record indicates that the Notice of Allowance was returned undelivered by the US Postal Service on August 10, 2004. The record does not indicate that the Notice of Allowance was re-mailed pursuant to MPEP 707.13.

For the above stated reasons, the Notice of Allowance will be re-mailed and period to pay the requisite fees will be reset to run three months from the date it is re-mailed. No extension of time is available under 37 CFR 1.136(a).

The delay in re-mailing the Notice of Allowance and any inconvenience it may have caused the petitioner is regretted.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

James Dwyer, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Thomas L. Irving
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

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MAR 0 4 2004

OFFICE OF PETITIONS

Applicant: Kim et al.
Appl. No.: 10/246,414
Filing Date: September 19, 2002
Title: VINYL GROUP-CONTAINING DIARYLETHENE AND POLYMER THEREOF HAVING EXCELLENT OPTICAL PROPERTIES
Attorney Docket No.: 05823.0233
Pub. No.: US 2003/0130456 A1
Pub. Date: July 10, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on September 9, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains a mistake in the Field of the Invention in paragraph 0004 wherein the phrase "where X and Y are O, S, NH or . . ." is misprinted as "where X and Y are 0, S, NH or . . .".

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." **A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.**[1] The instant request does not identify a material mistake in the publication made by the Office:

The typographical error wherein "where X and Y are O, S, NH or . . ." is misprinted as "where X and Y are 0, S, NH or . . ." is an Office error, but it is a minor typographical error, which is clearly understandable. The mistake is clearly understandable as the term is used in a listing of elements for the formula and a "0" appears very similar to a "O". The mistake is a minor typographical error which is clearly understandable from reading the specification and sentence in which the term is used, as terms are not read in a vacuum. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published"

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[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: 703-305-8568

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 5

ALAN E. KOPECKI
BURNS DOANE SWECKER & MATHIS, L.L.P.
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

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DEC 17 2002

OFFICE OF PETITIONS

In re Application of :
Manuel Ribeiro et al :
Application No. 10/246,417 :
Filed: September 19, 2002 :
Attorney Docket No. 025455-100 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center 2800.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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VOLENTINE FRANCOS & WHITT, P.L.L.C.
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE, SUITE 1260
RESTON, VA 20190

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Masahiro Kurimoto et al :
Application No. 10/246,428 :
Filed: September 19, 2002 :
Attorney Docket No. OKI.377

This is a decision on the petition, filed June 30, 2005 under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 10, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2825 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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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L Street, NW
Washington, DC 20037

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MAY 23 2005

OFFICE OF PETITIONS

In re Application of :
Kensuke Amemiya, et al. :
Application No. 10/246,450 : ON PETITION
Filed: September 19, 2002 :
Attorney Docket No. A8319.0020/P020 :

This is a decision on the petition, filed May 20, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 8, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2882 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. 15

BLANK ROME COMISKY & MCCAULEY, LLP
900 17TH STREET, N.W., SUITE 1000
WASHINGTON DC 20006

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MAY 15 2003

OFFICE OF PETITIONS

In re Application of :
Holling, Butler, and Reeves :
Application No. 10/246,456 : DECISION REFUSING STATUS
Filed: September 19, 2002 : UNDER 37 CFR 1.47(a)
For: TAMPER RESISTANT ELECTRONIC :
TAG :

This is in response to the petition under 37 CFR 1.47(a), filed January 30, 2003.

The petition is **dismissed**.

Applicants are given two (2) months from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing 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 19, 2002. On October 23, 2002, a "Notice to File Missing Parts of Application" was mailed, requiring the signature of joint inventor, Andrea N. Holling, on the declaration and a surcharge for its late filing.

In response, on January 30, 2003, applicants filed the present petition, a request for a two month extension of time, and an authorization to charge the Deposit Account for the requisite fees. Declarations of facts of Connie Wilson, Kenneth Pompa and Paula stiles accompanied the petition. The declarants set forth the last known address of Ms. Holling and explained that she was presented with the application papers, but refused to sign the declaration for the patent application.

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. Applicants lack item (2) as set forth above.

As to item (2), applicants failed to provide an oath or declaration for the patent application in compliance with 37 CFR 1.63. The declaration of Ms. Holling did not set forth her citizenship. Applicants must submit an oath or declaration indicating Ms. Holling's citizenship and signed by the joint inventors on behalf of themselves and Ms. Holling.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 9

BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

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JUL 2 8 2003

OFFICE OF PETITIONS

In re Application of :
Holling, Butler, and Reeves :
Application No. 10/246,456 : DECISION GRANTING STATUS
Filed: September 19, 2002 : UNDER 37 CFR 1.47(a)
For: TAMPER RESISTANT ELECTRONIC :
TAG :

This is in response to the renewed petition under 37 CFR 1.47(a), filed July 15, 2003.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers.

The 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.

Petitioner submitted a second petition fee with the present petition. This duplicate payment of $130.00 will be credited to Deposit Account No. 23-2185.

The application file is being forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Andrea N. Holling
5520 Edie Court NW
Albuqerque, NM 87114

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JUL 2 8 2003

OFFICE OF PETITIONS

In re Application of :
Holling, Butler, and Reeves :
Application No. 10/246,456 : LETTER
Filed: September 19, 2002 :
For: TAMPER RESISTANT ELECTRONIC :
TAG :

Dear Ms. Holling:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

UNITED STATES 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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OFFICE OF PETITIONS

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

In re Patent No. 7,091,127
Issue Date: August 15, 2006
Application No. 10/246,500
Filed: September 18, 2002
Attorney Docket No. 50154/007002

: DECISION ON REQUEST FOR
: RECONSIDERATION OF
: PATENT TERM ADJUSTMENT

This is a decision on the "Application for Patent Term Adjustment under 37 CFR § 1.705," filed October 16, 2006. Patentee requests that the patent term adjustment indicated on the patent be corrected from four hundred seventy-one days (471) to five hundred fifteen (515) days.

The request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) is **DISMISSED.**

Patentee is given **TWO (2) MONTHS** from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR §1.136.

On August 15, 2006, application No. 10/246,500 matured into Patent No. 7,091,127. The instant request for reconsideration was timely filed within two months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of four hundred seventy-one (471) days. Patentee argues that the period of reduction for applicant delay should be corrected from a total of fifty-two (52) days to a total of eight (8) days. Patentee disputes the reduction of forty-four (44) days pursuant to 37 CFR § 1.704(c)(10) for the filing of drawings after the mailing of the notice of allowance.

Patentee acknowledges submitting corrected drawings after the mailing of the notice of allowance. However, patentee asserts that the patentee should not be penalized with a reduction pursuant to § 1.704(c)(10) in this case. Patentee states that the "Notice Regarding Drawings" mailed May 4, 2006, was the first formal requirement for drawings and that the patentee promptly responded. Patentee further maintains that responding to the "Notice Regarding Drawings" was not a failure to engage in reasonable efforts to conclude prosecution because the USPTO should have required formal drawings during prosecution.

Patentee's arguments have been considered, but are not persuasive. The filing of drawings after the mailing of a Notice of Allowance is properly a basis for reduction of patent term adjustment even if in response to a "Notice Regarding Drawings."

37 CFR § 1.704(c)(10) provides that:

Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or

(ii) Four months;

Other than those papers identified in this Notice, all papers filed after allowance of an application substantially delay the Office's ability to process an application for a patent because the Office does not wait until payment of the Issue Fee to begin the patent issue process. As a result, 37 CFR 1.704(c)(10) does not distinguish between papers that are and are not required by the Office. Filing of any drawings after allowance will be treated as a failure to engage in reasonable efforts to conclude prosecution.

Accordingly, pursuant to § 1.704(c)(10), the patent term adjustment was properly reduced by the lesser number of days, forty-four (44), counting the number of days in the period beginning on the date the drawings were filed, July 3, 2006, and ending on the date of issuance of the patent, August 15, 2006.

In view thereof, the reduction of forty-four (44) days was proper.

It is concluded that the patent properly issued with a revised Patent Term Adjustment of four hundred seventy-one (471) days.

The $200.00 fee set forth in 37 CFR 1.18(e) will be charged to deposit account 03-2095. No additional fees are required.

Further correspondence with respect to this decision should be addressed as follows:

By Mail: Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
ATTN: Office of Petitions

By Hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this decision may directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

In re Patent of :
Magoshi :
Patent No. 7,107,461 :
Issue Date: September 12, 2006 : Decision on Petition
Application No. 10/246,501 :
Filing Date: September 18, 2002 :
Attorney Docket No. SCEI 3.0-167 :

This is a decision in response to the paper filed September 14, 2006, which is being treated as a petition under 37 CFR 3.81 to accept the correction of the assignee data on the front page of the above-identified patent.

The request under 37 CFR 3.81 is **GRANTED**.

37 CFR 3.81(b) reads:

> 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.

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Petitioner has met the requirements set forth above. Therefore, the request is granted.

The petition fee of $130 has been charged to petitioner's deposit account.

The Certificates of Correction Branch will issue the requested certificate of correction in due course.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

In re Application of :
Brandenberger : DECISION ON PETITION
Application No. 10/246,503 :
Filed: September 17, 2002 :
Atty. Dkt. No.: 10017757-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 22, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the final Office action mailed May 18, 2006. The final Office action set a three (3) month shortened statutory period of time for reply. This decision precedes Notice of Abandonment.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the final Office action is accepted as having been unintentionally delayed.

This application file is being forwarded to Technology Center 2100 for processing of the RCE submitted herewith.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES 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.

HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY CA 94019

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JAN 25 2008

OFFICE OF PETITIONS

In re Application of	:	DECISION
Kasi et al.	:	ON APPLICATION FOR
Application No. 10/246,512	:	PATENT TERM ADJUSTMENT
Filed: September 18, 2002	:	and
Attorney Docket No. OIN 1026-1	:	ON REQUEST FOR REINSTATEMENT
	:	OF
	:	PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed September 13, 2007. Therein, applicants request reconsideration of the patent term adjustment of 0 days indicated in the determination of patent term adjustment under 35 U.S.C. 154(b) as indicated on the notice of allowance. This request is made in part on the basis that the Office will take in excess of 3 years to issue the patent. Therein, applicants request that a period of reduction of 32 days pursuant to 1.704(b) be excused. Considering both of these requests, applicants request that they be afforded a patent term adjustment of 801 or 769 days.

To the extent that 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, 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 patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

37 CFR 1.703(b) provides that:

> The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, ...

Pursuant to this section, the period of adjustment is calculated based on the date of issue of the patent and not based on the date of mailing of the Notice of Allowance or the projected issue date.

Patentee is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Patentee may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

As to the other grounds for the application for patent term adjustment under 37 CFR 1.705(b), the application is **GRANTED to the extent indicated herein**.

As to the request for reinstatement of patent term adjustment under 37 CFR 1.705(c), the request is **DISMISSED**.

For the reasons stated herein, the Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is one **(1)** day. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

BACKGROUND

On June 27, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment

(PTA) to date is 0 days. On September 13, 2007, applicants timely[1] submitted an application for patent term adjustment (with required fee) and a request for reinstatement of patent term adjustment (with required fee).

Applicants state that no terminal disclaimer has been filed or is required.

ON APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)

The calculations of patent term adjustment have been reviewed. It is agreed as argued by applicants that the period of adjustment for Office delay in taking more than 14 months to issue a first Office action is 70 days and not 59 days. The cover page for an Office action with a date of mailing thereon of January 16, 2004 is present in the record, but it is only a cover page (It is entered under a date of January 26, 2004, indicating possibly that it was returned on that date). A first complete Office action including the cover page and most importantly the examiner's Office action is present in the record with a date of mailing of January 27, 2004. Under the circumstances, it is appropriate to use January 27, 2004 in calculating Office delay. As such, the period of adjustment under 37 CFR 1.702(a)(1) and 1.703(a)(1) is 70 days (i.e., November 19, 2003 to January 27, 2004).

Moreover, the record reveals that, on February 5, 2004, the Office action was re-mailed and the period for reply reset. Accordingly, applicant delay in responding should be calculated based on the February 5, 2004 mailing (not the incomplete January 16, 2004 mailing or the superseded January 27, 2004 mailing). The response was filed on May 6, 2004. Thus, pursuant to 37 CFR 1.704(b), the period of reduction is 1 day, not 20 days.

All other calculations of record are correct.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance

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[1] PALM records indicate that the Issue Fee payment was received on September 19, 2007.

is one (1) day (70 + 3 days of Office delay reduced by 1 + 39 + 32 days of applicant delay).

ON REQUEST FOR REINSTATEMENT OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(c)

Petitioner argues that in spite of all due care, applicants were unable to reply to the restriction requirement within three months of the mailing date of the Office action. Specifically, petitioner requests that the Office excuse the 32 days of time leading up to January 10, 2005 as counsel exercised due care but was legally prevented by bankruptcy proceedings from responding within the three-month period.

37 CFR § 1.704(b) provides that:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. 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.

It is undisputed that applicants did not file a response to the restriction requirement mailed September 9, 2004 until January 10, 2005, three months and 32 days later. Accordingly, pursuant to § 1.704(b), the period of adjustment was properly reduced by 32 days, the number of days, beginning on December 10, 2004, the day after the date that is three months after the date of

mailing of the restriction requirement, and ending on January 10, 2005, the date of filing of the reply.

As stated in MPEP 2734,

37 CFR 1.705(c) implements the provisions of 35 U.S.C. 154(b)(3)(C) and specifically provides that a request for reinstatement of all or part of the period of adjustment reduced pursuant to 37 CFR 1.704(b) for failing to reply to a rejection, objection, argument, or other request within three months of the date of mailing of the Office communication notifying the applicant of the rejection, objection, argument, or other request must include:

> (1) the fee set forth in 37 CFR 1.18(f); and (2) a showing to the satisfaction of the Director that, in spite of all due care, the applicant was unable to reply to the rejection, objection, argument, or other request within three months of the date of mailing of the Office communication notifying the applicant of the rejection, objection, argument, or other request. 37 CFR 1.705(c) also provides that the Office shall not grant any request for reinstatement for more than three additional months for each reply beyond three months of the date of mailing of the Office communication notifying the applicant of the rejection, objection, argument, or other request (35 U.S.C. 154(b)(3)(C)).

Filing a reply outside of three months after an Office action is per se a failure to engage in reasonable efforts to conclude prosecution under 35 U.S.C. 154(b)(2)(C)(ii) unless applicant can establish that the delay was "in spite of all due care."

The Office "shall reinstate all or part of the cumulative period of time of an adjustment reduced under [35 U.S.C. 154(b)(2)(C)] if the applicant... makes a showing that, in spite of all due care, the applicant was unable to respond within the 3-month period...." See 35 U.S.C. 154(b)(3)(C). The "due care" of a reasonably prudent person standard has been applied in deciding petitions under the "unavoidable delay" standard of 35 U.S.C. 133. See In re Mattullath, 38 App. D.C. 497, 514-15 (1912) ("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") (quoting and adopting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33); see also Ray v. Lehman, 55 F.3d 606, 609, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995) ("in determining whether a delay...was unavoidable, one looks to whether the party...exercised the due care of a reasonably prudent person"). While the legislative history of the American Inventors Protection Act of 1999 is silent as to the meaning of the phrase "in spite of all due care," the phrases "all due care" and "unable to respond" invoke a higher degree of care than the ordinary due care standard of 35 U.S.C. 133, as well as the "reasonable efforts to conclude processing or examination [or prosecution] of an application" standard of 35 U.S.C. 154(b)(2)(C)(i) and (iii). Therefore, applicants should not rely upon decisions relating to the "unavoidable delay" standard of 35 U.S.C. 133 as controlling in a request to reinstate reduced patent term adjustment on the basis of a showing that the applicant was unable to respond within the three-month period in spite of all due care.

Petitioner has not met this higher standard. To avoid entry of a period of reduction for applicant delay within the meaning of §1.704(b), applicants should have filed a response to the Office action mailed September 9, 2004 on or by December 9, 2004. Petitioner's arguments have been considered, but not found persuasive that applicant was "unable to respond" within the three month period "in spite of all due care."

Petitioner bases their inability to act "in spite of all due care" to the assignee's estate becoming entangled in bankruptcy proceedings which prevented counsel from acting. The relevant Office action, a restriction requirement, was mailed on September 9, 2004. Applicants did not respond until January 10, 2005. Petitioner's stated basis for inaction is not sufficient to show that applicant was unable to respond within the three month period in spite of all due care. Petitioner has not established that the bankruptcy precluded their ability to act for the entire relevant period. The assignee did not declare bankruptcy until October 6, 2004. Moreover, the attorney of record did not file a withdrawal as attorney until November 5, 2004. Thus, an explanation is lacking for applicant's failure to respond from September 9, 2004 to the filing of the bankruptcy on October 6, 2004. In fact, the record shows that in that time period, on September 16, 2004, counsel for applicant requested an interview. It appears that at least until October 6, 2004, it was within counsel's control to file a

response to the Office action. Awaiting the examiner's answer to their interview request before filing a response is not sufficient to meet this standard. Even if it were concluded that the bankruptcy proceedings supported this request for reinstatement, petitioner has not shown that in spite of all due care he was unable to file an election with traverse prior to the filing of the bankruptcy on October 6, 2004.

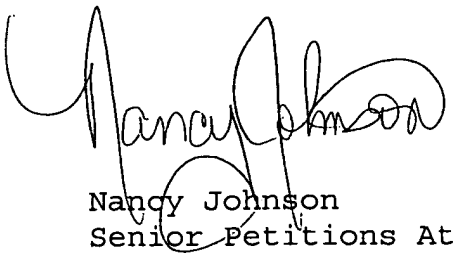
CONCLUSION

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is one (1) day.

The Office acknowledges submission of the $200 fee set forth in 37 CFR 1.18(e) and the $400.00 fee set forth in 37 CFR 1.18(f). No additional fees are required.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Day : Thursday
Date: 1/24/2008

PALM INTRANET

Time: 19:15:00

PTA Calculations for Application: 10/246512			
Application Filing Date:	09/18/2002	PTO Delay (PTO):	62
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	91
Post-Issue Petitions:	0	Total PTA (days):	1
PTO Delay Adjustment:	30		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
86	01/09/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		1	
85	01/09/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	20		
84	01/09/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	70		
83	01/09/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		59	
73	06/27/2007	MAIL NOTICE OF ALLOWANCE			
72	06/27/2007	MAIL EXAMINER'S AMENDMENT			
71	06/27/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
70	06/15/2007	ISSUE REVISION COMPLETED			
69	06/15/2007	DOCUMENT VERIFICATION			
68	05/30/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
67	06/15/2007	EXAMINER'S AMENDMENT COMMUNICATION			
66	06/14/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
65	06/08/2007	NOTICE OF ALLOWABILITY			
64	04/02/2007	DATE FORWARDED TO EXAMINER			
63	03/20/2007	RESPONSE AFTER NON-FINAL ACTION			
62	12/21/2006	MAIL NON-FINAL REJECTION			
61	12/11/2006	NON-FINAL REJECTION			
60	10/11/2006	MISCELLANEOUS INCOMING LETTER			
59	10/23/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
58	10/18/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
57	09/20/2006	MISCELLANEOUS INCOMING LETTER			
56	09/22/2006	DATE FORWARDED TO EXAMINER			

55	09/20/2006	RESPONSE AFTER NON-FINAL ACTION			
54	06/20/2006	MAIL NOTICE OF WITHDRAWN ACTION			
53	06/20/2006	MAIL NON-FINAL REJECTION			
52	06/12/2006	NON-FINAL REJECTION			
51	06/12/2006	LETTER WITHDRAWING / VACATING OFFICE ACTION			
50	12/01/2005	MISCELLANEOUS INCOMING LETTER			
49	12/01/2005	MISCELLANEOUS INCOMING LETTER			
48	11/11/2005	MISCELLANEOUS INCOMING LETTER			
47	11/01/2005	MAIL FINAL REJECTION (PTOL - 326)			
46	10/31/2005	FINAL REJECTION			
45	08/15/2005	DATE FORWARDED TO EXAMINER			
44	08/04/2005	RESPONSE AFTER NON-FINAL ACTION			
43	05/04/2005	MAIL NON-FINAL REJECTION			
42	05/02/2005	NON-FINAL REJECTION			
41	03/10/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
40	09/16/2004	MISCELLANEOUS INCOMING LETTER			
39	02/28/2005	CORRESPONDENCE ADDRESS CHANGE			
38	02/26/2005	DATE FORWARDED TO EXAMINER			
37	01/10/2005	RESPONSE TO ELECTION / RESTRICTION FILED		32	25
36	01/10/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
35	12/14/2004	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
34	12/03/2004	CORRESPONDENCE ADDRESS CHANGE			
33	12/03/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
32	12/03/2004	MAIL-RECORD PETITION DECISION OF GRANTED RELATED TO ATTORNEY			
31	11/05/2004	PARALEGAL PETITION DECISION			
30	11/05/2004	PETITION ENTERED			
29	11/29/2004	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
28	10/06/2004	CASE DOCKETED TO EXAMINER IN GAU			
27	08/20/2004	REFERENCE CAPTURE ON IDS			
26.7	05/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	05/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

25	09/09/2004	MAIL RESTRICTION REQUIREMENT	3		20
24	09/07/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
23.7	06/14/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		39	20
23	06/14/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	05/06/2004	INCOMING LETTER PERTAINING TO THE DRAWINGS			
21	06/23/2004	DATE FORWARDED TO EXAMINER			
20	05/06/2004	RESPONSE AFTER NON-FINAL ACTION		20	12
19	05/06/2004	WORKFLOW INCOMING AMENDMENT IFW			
18	02/05/2004	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
17	02/03/2004	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
16	02/04/2004	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
15	02/03/2004	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
14	01/27/2004	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
13	01/27/2004	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
12	01/16/2004	MAIL NON-FINAL REJECTION	59		-1
11	01/12/2004	NON-FINAL REJECTION			
10	12/16/2003	CASE DOCKETED TO EXAMINER IN GAU			
9	01/31/2003	CASE DOCKETED TO EXAMINER IN GAU			
8	01/17/2003	APPLICATION DISPATCHED FROM OIPE			
7	01/17/2003	APPLICATION IS NOW COMPLETE			
5	12/27/2002	ADDITIONAL APPLICATION FILING FEES			
4	12/27/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
3	10/29/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	09/26/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/18/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

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Marvin E. Jacobs
KOPPEL & JACOBS
Suite 215
2151 Alessandro Drive
Ventura CA 93001

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FEB 10 2005

OFFICE OF PETITIONS

In re Application of :
Cheiky et al. :
Application No. 10/246,515 : DECISION GRANTING PETITION
Filed: September 18, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 968-20-020 :

This is a decision on the petition, filed November 29, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of an application filed in an eighteen month publication country on June 26, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and,

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of May 19, 2005, accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 1745.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

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www. uspto. gov

THEODORE J. BIELEN, JR.
1990 N. CALIFORNIA BLVD., SUITE 720
WALNUT CREEK, CA 94596

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NOV 0 5 2004

OFFICE OF PETITIONS

In re Application of
Chirs Ott
Application No. 10/246,555
Filed: September 19, 2002
Attorney Docket No. 14385

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 22, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the Issue fee and formal drawings in a timely manner in reply to the Notice of Allowance mailed May 11, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 12, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being forwarded to the Publishing Division.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Knobbe Martens Olson & Bear LLP

Intellectual Property Law

550 West C Street
Suite 1200
San Diego CA 92101
Tel 619-235-8550
Fax 619-235-0176
www.kmob.com

OK TO ENTER: /N.B./ (01/29/2010)

Jeremy R. Pierce
619-687-8615
Jeremy.Pierce@kmob.com

January 20, 2010

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: Title: METHODS OF SYNTHESIZING AN OXIDANT AND APPLICATIONS THEREOF
Letters Patent No. 6,974,562
Issued: December 13, 2005
Our Reference: FETRT.1CP1C1

Dear Sir:

Enclosed for filing is a Certificate of Correction in connection with the above-identified patent that was previously submitted. Pursuant to the PTO notice dated April 21, 2006, we have reviewed and corrected the request for Certificate of Correction for reconsideration.

The fee in the amount of $100 was previously submitted as some of the errors cited in the Certificate of Correction were incurred through the fault of the Applicant. However, please charge any additional fees to our Deposit Account No. 11-1410.

Respectfully submitted,

Knobbe, Martens, Olson & Bear, LLP

Jeremy R. Pierce
Registration No. 59,034
Customer No. 20,995

Enclosures
8402461
011810

OK TO ENTER: /N.B./ (01/29/2010)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,974,562 B2
APPLICATION NO. : 10/246,575
ISSUE DATE : December 13, 2005
INVENTOR(S) : Ciampi, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

First page, at column 2, line 3, after "30" insert --,--

First page, at column 2, line 5, after "282" insert --,--

First page, at column 2, line 8, after "416" insert --,--

Page 2, at column 1, line 1, delete "t al.," and insert --et al., --

Page 2, at column 1, line 3, after "315" insert --,--

Page 2, at column 1, line 5, delete "Toxicaology" and insert --Toxicology --

Page 2, at column 1, line 6, after "210" insert --,--

Page 2, at column 1, line 7, delete "Bemiller," and insert --BeMiller, --

Page 2, co. 1, line 9, after "4146" insert --,--

Page 2, at column 1, line 13, after "1194" insert --,--

Page 2, at column1, line 14, delete "et al." and insert --et al., --

Page 2, at column 1, line 23, after "557" insert --,--

Page 2, at column 1, line 25, delete "ion" and insert --iron--

Page 2, at column 1, line 30, after "137" insert --,--

Page 2, at column1, line 31, delete "Carr,J." and insert -- Carr, J. –

Page 2, at column 1, line 31, delete "aquenous" and insert --aqueous—

Page 2, at column 1, line 35, after "1298" insert --,--

Page 2, at column 1, line 41, delete "119-130,," and insert --119-130,--

Page 2, at column 1, line 42, after "J.P." insert --,--

MAILING ADDRESS OF SENDER:

Jeremy R. Pierce
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

DOCKET NO. FETRT.1CP1C1

OK TO ENTER: /N.B./ (01/29/2010)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,974,562 B2
APPLICATION NO. : 10/246,575
ISSUE DATE : December 13, 2005
INVENTOR(S) : Ciampi, et al.

Page 2, at column 1, line 42, after "et al." insert --,--

Page 2, at column 1, line 42, delete "transurancic" and insert –transuranics--

Page 2, at column 1, line 44, delete "(FEO_4-2)" and insert --(FeO_4^{2-}) --

Page 2, at column 1, line 45, after "795" insert --,--

Page 2, at column 1, line 48, after "822" insert --,--

Page 2, at column 1, line 49, after "J." insert --,--

Page 2, at column 1, line 50, after "125" insert --,--

Page 2, at column 1, line 51, delete "Golf," and insert --Goff,--

Page 2, at column 1, line 53, delete "(FEO_4-2)" and insert --(FeO_4^{2-})--

Page 2, at column 1, line 62, after "ferrate" insert --,--

Page 2, at column 2, line 2, after "168" insert --,--

Page 2, at column 2, line 5, after "104" insert --,--

Page 2, at column 2, line 8, after "122" insert --,--

Page 2, at column2, line 14, after "14" insert --,--

Page 2, at column 2, line 15, delete "$SiFeO_4$" and insert --$SrFeO_4$--

Page 2, at column 2, line 18, delete "(Fe(VI)" and insert --Fe(VI)--

Page 2, at column 2, line 28, delete "application" and insert --applications--

Page 2, at column 2, line 34, delete "Environmental" and insert --Environment --

Page 2, at column 2, line 39, after "et al." insert --,--

Page 2, at column 2, line 49, after "D." insert --,--

Page 2, at column 2, line 54, delete "Huanquin," and insert --Huanqin--

MAILING ADDRESS OF SENDER:

Jeremy R. Pierce
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

DOCKET NO. FETRT.1CP1C1

OK TO ENTER: /N.B./ (01/29/2010)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,974,562 B2

APPLICATION NO. : 10/246,575

ISSUE DATE : December 13, 2005

INVENTOR(S) : Ciampi, et al.

Page 2, at column 2, line 61, delete "waste"." and insert --waste",--

Page 3, at column 1, line 2, after "1381" insert --,--

Page 3, at column 1, line 9, after "et al." insert --,--

Page 3, at column 1, page 13, delete "FeO_42) and insert --FeO_4^{2-}"--

Page 3, at column 1, line 15, delete "engergy" and insert --energy--

Page 3, at column 1, line 16, after "2041" insert --,--

Page 3, at column 2, line 1, delete "is" and insert --in--

Page 3, at column 2, line 3, after "Research" insert --,--

Page 3, at column 2, line 3, after "36" insert --,--

Page 3, at column 2, line 3, after "2002" insert --,--

Page 3, at column 2, line 7, after "Electrochemistry" insert --,--

At column 1, line 9, after "429" insert --,--

At column 1, line 12, after "abandoned" insert --,--

At column 2, line 65, delete "beta-$Fe_2O_3H_2O$)," and insert --(beta-$Fe_2O_3 \cdot H_2O$)--

At column 8, line 49, delete "intermittently" and insert --intermittantly--

At column 30, line 44, delete "Manage." and insert --"Manage,--

At column 30, line 55, delete "carinogen." and insert --carcinogen.--

At column 32, line 46, delete "hydroxide," and insert --hydroxide--

At column 33, line 13, after "of" insert --the--

At column 33, line 19, delete "(a)" and insert --a)--

At column 33, line 20, delete "(b)" and insert --b)--

MAILING ADDRESS OF SENDER:

Jeremy R. Pierce
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

DOCKET NO. FETRT.1CP1C1

OK TO ENTER: /N.B./ (01/29/2010)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,974,562 B2
APPLICATION NO. : 10/246,575
ISSUE DATE : December 13, 2005
INVENTOR(S) : Ciampi, et al.

At column 33, line 21, delete "(c)" and insert --c)--

At column 38, line 5, after "comprising" insert --:--

At column 38, line 24, after "Cl_2(g)" insert --(--

At column 38, line 27, delete "$Fe(NO_3)_3 9H_2O$" and insert --$Fe(NO_3)_3 \cdot 9H_2O$--

At column 38, line 37, delete "ad" and insert --instead--

At column 38, line 40, delete "TEFLON®" and insert --TEFLON®--

At column 38, line 43, delete "$Fe(NO_3)_3 9H_2O$" and insert --$Fe(NO_3)_3 \cdot 9H_2O$--

At column 39, line 10, delete "Actual" and insert --*: Actual --

At column 39, line 14, delete "†Expected" and insert --†:Expected--

At column 39, line 23, delete "Uv-Vis" and insert --UV-Vis--

At column 39, line 30, delete "wt/SinR" and insert --wtISinR--

At column 43, line 12, delete "TEFLON®" and insert --TEFLON®--

At column 45, line 16, delete "*Basepm" and insert --*:Basepm--

At column 45, line 18, delete "†Sol" and insert --†:Sol--

At column 45, line 23, delete "‡C" and insert -- †:C --

At column 46, line 26, after "0.24" insert --g--

At column 47, line 60, delete TEFLON®" and insert --TEFLON®--

At column 49, line 23, delete TEFLON®" and insert --TEFLON®--

At column 50, line 23, delete TEFLON®" and insert --TEFLON®--

At column 52, line 16, in Claim 1, after "comprising" insert --:--

At column 52, At Column 46, in Claim 5, delete "comprise" and insert --comprises--

MAILING ADDRESS OF SENDER:

Jeremy R. Pierce
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

DOCKET NO. FETRT.1CP1C1

OK TO ENTER: /N.B./ (01/29/2010)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,974,562 B2

APPLICATION NO. : 10/246,575

ISSUE DATE : December 13, 2005

INVENTOR(S) : Ciampi, et al.

At column 52, line 52, in Claim 7, after "comprising" insert --:--

At column 54, line 2, in Claim 18, after "comprising" insert --:--

MAILING ADDRESS OF SENDER:

Jeremy R. Pierce
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

DOCKET NO. FETRT.1CP1C1

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BECKMAN COULTER, INC.
4300 N. HARBOR BOULEVARD
BOX 3100
FULLERTON, CA 92834-3100

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OFFICE OF PETITIONS

In Application of :
Mikolajczyk, et al. :
Application No. 10/246,582 :
Filed: September 18, 2002 :
Attorney Docket No. 2155-451 :

ON PETITION

This is a decision on the petition filed December 1, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct assignee data on the Fee(s) Transmittal form PTOL-85(b) so that the Letter of Patent will issue with the correct city for the assignee. For purposes of this petition, the terms "assignee name" and "assignee data" are used interchangeably.

The request is **DISMISSED.**

Petitioner states that the assignee data, specifically the city of the assignee, was cited incorrectly on the Fee(s) Transmittal as "Fullerton, California". Accordingly, petitioner requests that the issued patent reflect the city of the assignee as San Diego, California.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the Assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 37 CFR 3.81(b). See also MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

A review of the Office database assignment records reflects that the assignment recorded November 25, 2002, reflects the city of the assignee as "San Diego, California". Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of

[1] *See* MPEP 1309, subsection II and Official Gazette of June 22, 2004.

correction to correct the front page of the Letters of Patent to reflect that the city of the assignee was of record at the time of issuance of the application into a patent. Note also 35 U.S.C. § 152.

In view of the above and after issuance of this application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth "San Diego" as the city of the assignee. *No certificate of correction will be issued which set forth a city for the assignee other than the assignee set for in this request. A copy of this decision must accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction reflecting the correct city for the assignee set forth in this request since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Alternatively, if petitioner desires to have the correct assignee data appear on the front page of the Letter Patent, petitioner may wish to consider filing a petition to withdraw the subject application from issue under 37 CFR 1.313(c)(2) . The petition to withdraw from issue under 37 CFR 1.313(c)(2) must be accompanied by a request fro continued examination (RCE) and submission (which may be a request under 37 CFR 3.81(b)).

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
www.uspto.gov

Paper No. 8

Ivor R. Elrifi, Esq.
MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
One Financial Center
Boston, MA 02111

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FEB 25 2003

OFFICE OF PETITIONS

In re Application of :
Kumud Majumder :
Application No. 10/246,583 : DECISION ACCORDING STATUS
Filed: September 18, 2002 : UNDER 37 C.F.R. § 1.47(b)
Title: NOVEL POLYPEPTIDES AND :
NUCLEIC ACIDS ENCODING THE SAME :

This is in response to the "Petition for Filing Patent Application under 37 C.F.R. § 1.47(b)," filed December 6, 2002.

The petition under 37 C.F.R. § 1.47(b) is **GRANTED**.

The above-identified application was filed on September 18, 2002, with an unexecuted declaration naming Kumud Majumder as sole inventor. Accordingly, on October 8, 2002, applicant was mailed a "Notice to File Missing Parts of Application," requiring an executed oath or declaration, and a surcharge for its late filing. This Notice set a period for reply of two months, with extensions of time obtainable under § 1.136(a).

With the instant petition, petitioner submitted a declaration executed by Christopher McLeod, as agent for assignee CuraGen Corporation, on behalf of non-signing sole inventor Kumud Majumder; and paid the surcharge for late filing. To make this response timely, extension of the period for response to December 18, 2002 is necessary. (The papers filed do not contain a certificate of mailing under § 1.8). Pursuant to the authorization provided, the fee for such a petition has been charged to Deposit Account No. 50-0311.

Applicant maintains that status under § 1.47(b) is proper because sole inventor Majumder has refused to join in the application. In support thereof, rule 47(b) applicant submits, *inter alia*:

- the employment agreement between inventor Majumder and rule 47(b) applicant CuraGen Corporation;
- a copy of the cover letter dated October 25, 2002, transmitting the application papers to inventor Majumder by certified mail return receipt requested;
- a letter dated November 2, 2002, from inventor Majumder on the subject of signing patent applications and requesting payment for the time spent in processing the documents; and
- the petition signed by patent attorneys Ivor Elrifi and Christina Karnakis, which sets forth the circumstances of

the presentation of the application papers and of the refusal of the inventor to join in the application and includes:

- payment of the petition fee;
- a statement of the last known address of inventor Majumder;
- a statement that inventor Majumder was an employee of assignee CuraGen Corporation at the time the invention was conceived and reduced to practice; and
- a statement that the filing of the application is necessary to preserve the rights of the CuraGen Corporation or to prevent irreparable damage.

The declaration filed December 6, 2002, has been reviewed and found in compliance with §§ 1.63 and 1.64.

Having reviewed the petition, it is concluded that petitioner has met the requirements for acceptance of this declaration under § 1.47(b)[1].

This application is hereby accorded Rule 1.47(b) 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 the Office of Initial Patent Examination for completion of pre-examination processing. (The Notice mailed October 8, 2002, also required compliance with the requirements of 37 C.F.R. 1.821-1.825).

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions

---

[1] 37 C.F.R. §1.47(b) requires: 1) an acceptable oath or declaration in compliance with 37 C.F.R. §1.63 and 1.64 or 1.175; (2) the rule 47 applicant must state his or her relationship to the inventor as required by 37 C.F.R. §1.64; (3) proof that the non-signing inventor cannot be found or reached after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); 4) the petition fee; (5) a statement of the last known address of the non-signing inventor; 6) that rule 47 applicant make out a *prima facie* case (i) that the invention has been assigned to him or her or (ii) that the inventor has agreed in writing to assign the invention to him or her or iii) otherwise demonstrate a proprietary interest in the subject matter of the invention; and (7) rule 47 applicant must prove that the filing of the application is necessary (i) to preserve the rights of the parties or (ii) to prevent irreparable damage.

UNITED STATES PATENT AND TRADEMARK OFFICE

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DR. KUMUD MAJUMDER
2398 HIGH RIDGE RD.
STAMFORD, CT 06903

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FEB 25 2003

OFFICE OF PETITIONS

In re Application of :
Kumud Majumder :
Application No. 10/246,583 :
Filed: September 18, 2002 :
Title: NOVEL POLYPEPTIDES AND :
NUCLEIC ACIDS ENCODING THE SAME :

Dear Dr. Majumder:

You are named as a sole inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 118 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as sole inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. 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).

Nancy Johnson
Petitions Attorney
Office of Petitions

Ivor R. Elrifi, Esq.
MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
One Financial Center
Boston, MA 02111
(617) 542-6000

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

#3

MAILED

OCT 25 2002

Office of the Director
Group 3600

RUGGERO MARIA SANTILLI PH D
90 EAST WINDS COURT
PALM HARBOR FL 34683

October 21, 2002

IN RE: Santilli
SERIAL NO. 10/246,589 :DECISION ON PETITION FOR
FILED: September 18, 2002 : FOR A NEW EXAMINER
:

FOR: METHOD AND APPARATUS FOR STIMULATED BETA DECAYS

This is in response to the petition filed on September 18, 2002 for the appointment of a new examiner.

The petition is DENIED.

Applicant request to assignment of a new examiner based on the fact that the examiner has cited articles from a website containing negative personal opinions of the applicant. Applicant perceives the examiners action of citing these articles as a personal attack against the applicant.

A review of the file indicates that the examiner has rejected the application as inoperable and/or not providing an adequate disclosure. In doing so, the burden of proving inoperability falls on the examiner and can take various forms. The examiner may scientifically disprove applicant's theories and/or rely on comments and statements from those skilled in the art as evidence that the invention is inoperable. The messages cited by the examiner are an attempt to submit evidence by the scientific community to disprove applicant's invention. It is unfortunate that the messages are rather direct in their observations, but the messages do impart an important position by certain members of the scientific community on the operability of the invention.

I can personally attest to the fact that this is not intended to be a personal attack on the applicant but merely a "baseline" to initiate a position. Any new discovery that is perceived to defy or contradict current known laws of physics must be proven beyond doubt to work as claimed before it can be patented. Thus, any doubt, especially from the scientific community, must be considered and overcome before the Office can establish a position of the operability of such a device. It would be improper for the examiner to disregard these messages as doing so would be a failure to review all the facts surrounding the operability of the invention.

As indicated by the examiner, the applicant may overcome the basic fundamental questions regarding operability by submitting sufficient evidence substantiating operability of the invention.

Any comments with respect to applicants concerns related to equating the invention with cold-fusion would be beyond the scope of this decision. Any arguments with respect to any rejections made in an application should be brought before the examiner and may be appealed to the Board of Patent Appeals and Interferences.

Any question concerning this decision should be referred to Michael Carone at 703 306-4198.

Michael J. Carone
Supervisory Patent Examiner
Art Unit 3641

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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MAILED
FROM DIRECTORS OFFICE

MAR 0 4 2005

TECHNOLOGY CENTER 3600

Thomas W. Hanson, LLC
3990 S. Cherokee St.
Englewood, CO 80110

In re Application of :
Felicia L. Gallegos Geier :
Application No. 10/246,590 :
Filed: September 18, 2002 :
For: FOLDING SUNSHADE FOR A CAR SEAT

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is a decision on applicant's Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on December 3, 2004.

The petition is **DENIED**.

A review of the file record reveals that a Final Office action rejection was mailed on March 31, 2004, setting a three-month shortened statutory period for response. On July 28, 2004 applicant filed a timely response to the Final rejection, which included a request for a one-month extension of time. On October 14, 2004 applicant submitted a supplement response, which was a clean copy of the July 28, 2004 response. On October 28, 2004 the Office mailed an Advisory Action (PTO-303), indicating that the amendment filed by applicant on October 14, 2004(the copy of the July 28, 2004 amendment) had not been entered, because it failed to place the application in condition for allowance, and further indicated that the amendment would be entered for purposes of appeal. Since no proper response to the Final Office action was received before the termination of the six-month statutory period for response, the application became abandoned at midnight on September 31, 2004, and a Notice of Abandonment was mailed on November 17, 2004. The Notice of Abandonment, mailed November 17, 2004, indicated that "(n)o reply has been received."

Petitioner has filed the present petition to withdraw the holding of abandonment. Petitioner contends that "the reason cited for the holding of Abandonment, that no reply was received, is just as clearly incorrect", and requests that "the holding of abandonment be withdrawn and that the response be accepted as originally filed."

Applicant's petition, and evidence submitted, is insufficient to withdraw the holding of abandonment. While applicant has properly pointed out that the examiner incorrectly checked the box on the Notice of Abandonment, mailed November 17, 2004, stating that "No reply has been received", this mistake has no bearing on the abandonment of the present application. In this regard, it is clear from the file record that the amendment submitted by applicant on July 28, 2004, and re-submitted on October 14, 2004 was considered by the examiner, and was deemed to be insufficient to place the application in condition for allowance. The examiner so noted this consideration on the Advisory Action (PTO-303), mailed October 28, 2004. Since no proper response to the Final Office action was received before the termination of the six-month statutory period for response, the application became abandoned at midnight on September 31, 2004.

In his petition, petitioner further urges that the finality of the Office action mailed March 31, 2004 "be withdrawn, and a reasonable time set for the Applicant to respond to the Advisory Action", because the "Advisory Action was mailed after that 6 month date and did not withdraw the finality of that Action as recommended in MPEP 706.07(f)(O)." Applicant's argument is not well taken. In this regard, MPEP 706.07(f)(O) refers to the re-opening of prosecution after a final rejection (e.g. a new reference is uncovered), which is not the case in the present application.

While it is unfortunate and regrettable that the Advisory Action was mailed after the expiration of the six-month statutory period for response to the Final rejection, and the Notice of Abandonment erroneously indicated that "No reply has been received", it still remains applicant's responsibility to submit a proper reply to the Final Rejection within the six-month statutory period for response. Such a proper reply may be only, either: (1) a timely filed amendment which places the application in condition for allowance, (2) a timely filed Notice of Appeal, or (3) a timely filed Request for Continued Examination (RCE). It should be kept in mind that applicant cannot, as a matter of right, amend any finally rejected claim, add new claims after a final rejection or reinstate previously canceled claims (MPEP § 714.13(II)). And, if no appeal has been filed within the period for reply and no amendment has been submitted to make the application allowable or which can be entered in part, the application stands abandoned (MPEP § 714.13(III)).

Thus, there is no Office error and the application is properly abandoned.

Applicants may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(l); and (3) an adequate 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.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition fee required by law for filing a petition under unavoidable standard is $500. The fee for a petition under the unintentional standard is $1,500. If applicants have, or can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive. The required items should be promptly submitted under a cover letter entitled "Petition to Revive."

Further correspondence with respect to a petition to revive should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: 2011 South Clark Place
Crystal Plaza Two, Lobby
Room 1B03
Arlington, VA 22202

By FAX: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries should be directed to the Office of Petitions Staff at (571) 272-3282.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/rwg: 2/10/05

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

MERCHANT & GOULD PC
PO BOX 2903
MINNEAPOLIS MN 55402-0903

COPY MAILED
AUG 17 2006
OFFICE OF PETITIONS

In re Application of :
Felicia L. Gallegos Geier :
Application No. 10/246,590 : ON PETITION
Filed: September 18, 2002 :
Attorney Docket No. Geier-1 :

This is a decision on the petition filed on January 9, 2006, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed on March 31, 2004. This Office action set a shortened statutory period for reply of three (3) months. Applicant filed an Amendment on July 28, 2004, made timely by obtaining a one (1) month extension of time. However, by Advisory Action mailed October 28, 2004, the Examiner informed Applicant that the Amendment would not be entered because it failed to place the application in condition for allowance. As no proper reply was filed, the above-identified application became abandoned on August 1, 2004. A Notice of Abandonment was mailed on November 17, 2004. Applicant filed a petition to withdraw the holding of abandonment on December 3, 2004. However, the petition was dismissed in a decision mailed on March 4, 2005.

With the instant petition, applicant paid the petition fee, submitted the required reply in the form of an RCE, and made the proper statement of unintentional delay.

The matter is being forwarded to Group Art Unit 3636 for consideration of the RCE filed January 9, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

10/246,598

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3-25-05

Paper No.: _____

TO SPE OF : ART UNIT 2832

SUBJECT : Request for Certificate of Correction on Patent No.: 6771155

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.

Please check 2nd Request

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

SM 2832
Art Unit

PTO/SB/44 (10-96)
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Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 6,771,155 B2

DATED : August 3, 2004

INVENTOR(S): Yukihiro Asa

It is certified that an error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

In the Abstract:

Item (57), line 6, replace "hole" with --Hall--.

In the Specification:

Column 1, line 19, replace "hole" with --Hall--.

Column 1, line 29, replace "hole" with --Hall--.

Column 1, line 33, replace "hole" with --Hall--.

Column 1, line 34, replace "hole" with --Hall--.

Column 1, line 56, replace "hole" with --Hall--.

Column 1, line 59, replace "hole" with --Hall--.

Column 1, line 61, replace "hole" with --Hall--.

Column 2, line 4, replace "hole" with --Hall--.

Column 2, line 7, replace "hole" with --Hall--.

Column 2, line 8, replace "hole" with --Hall--.

Column 2, line 11, replace "hole" with --Hall--.

Column 2, line 18, replace "hole" with --Hall--.

Column 2, line 52, replace "hole" with --Hall--.

Column 2, line 57, replace "hole" with --Hall--.

Column 3, line 19, replace "hole" with --Hall--.

Column 3, line 22, replace "hole" with --Hall--.

Column 3, line 29, replace "hole" with --Hall--.

Column 3, line 31, replace "hole" with --Hall--.

Column 3, line 35, replace "hole" with --Hall--.

Column 3, line 37, replace "hole" with --Hall--.

Column 3, line 43, replace "hole" with --Hall--.

Column 3, line 52, replace "hole" with --Hall--.

Column 3, line 61, replace "hole" with --Hall--.

Column 3, line 65, replace "hole" with --Hall--.

Column 4, line 1, replace "hole" with --Hall--.

Column 4, line 3, replace "hole" with --Hall--.

Column 4, line 38, replace "hole" with --Hall--.

Column 4, line 41, replace "hole" with --Hall--.

In the Claims:

Claim 1, column 4, line 62, replace "hole" with --Hall--.

Claim 1, column 5, line 1, replace "hole" with --Hall--.

Claim 1, column 5, line 5, replace "hole" with --Hall--.

Claim 4, column 5, line 24, replace "hole" with --Hall--.

Claim 9, column 6, line 12, replace "hole" with --Hall--.

Claim 9, column 6, line 14, replace "hole" with --Hall--.

Claim 9, column 6, line 20, replace "hole" with --Hall--.

Claim 9, column 6, line 22, replace "hole" with --Hall--.

MAILING ADDRESS OF SENDER:
Hickman Palermo Truong & Becker LLP
1600 Willow Street
San Jose, California 95125-5106

PATENT NO: 6,771,155 B2

No. of additional copies

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

PTO/SB/44 (10-96)
Approved for use through 6/30/99. OMB 0651-0033
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 6,771,155 B2

DATED : August 3, 2004

INVENTOR(S): Yukihiro Asa

It is certified that an error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

In the Claims:

Claim 12, column 6, line 24, replace "grain" with --gram--.

MAILING ADDRESS OF SENDER:
Hickman Palermo Truong & Becker LLP
1600 Willow St.
San Jose, CA 95125

PATENT NO: 6,771,155

No. of additional copies

⇨ 1

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/246,602	None	Paul R. Scharr	None

CONFIRMATION NO.
7364

Paul R. Scharr
5574 E. Crested Saguaro Lane
Scottsdale AZ 85262

Date Mailed: November 2, 2005

Decision Granting Petition under 37 CFR 1.138(c)

The declaration of express abandonment is 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.

The petition is granted.

The express abandonment is recognized and the application has been withdrawn from publication. A notice of abandonment is attached.

Telephone inquiries should be directed to the Office of Patent Publication, the Pre-Grant Publication Division, at 703-605-4283.

Barbara J. Debnam
Pre-Grant Publication Division
Office of Patent Publication

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : 11/15/07 S.N. 10/246,604

TO SPE OF : ART UNIT 3728

SUBJECT : Request for Certificate of Correction on Patent No.: 6,938,756

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

SPE: Mickey Yu
Supervisory Patent Examiner
Group 3700 3728 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 9

KATE H. MURASHIGE
MORRISON & FOERSTER LLP
3811 VALLEY CENTER DRIVE
SUITE 500
SAN DIEGO, CA 92130-2332

COPY MAILED

JUN 16 2003

OFFICE OF PETITIONS

In re Application of
Gruenberg et al.
Application No. 10/246,646
Filed: September 17, 2002
Attorney Docket No. 549172000221

: DECISION ACCORDING
: STATUS UNDER
: 37 CFR 1.47(a)

This decision concerns the April 28, 2003 petition under 37 CFR 1.47(a).

The petition is **GRANTED.**

Two inventors are named in this application which, upon filing, did not include an oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on October 18, 2002, giving Applicants an extendable 2-month period to submit a proper oath or declaration. In response, the instant petition was filed, accompanied by a "Declaration for Utility Patent Application" signed by 1 of the 2 inventors ("4/28/03 Declaration"), along with a request for a 4-month extension of time and the requisite extension-of-time fee.

The petition asserts that the other inventor, Micheal Gruenberg ("Gruenberg"), refuses to join in this application and requests that the available inventor be allowed to file this application on behalf of himself and Gruenberg. Under 37 CFR 1.47(a), the available inventor may file this application on behalf of himself as well as Gruenberg provided that a *bona fide* attempt has been made to present to Gruenberg, for review and signature, a copy of the entire application (specification including claims),[1] and that the latter refuses to join in this application.[2]

To show that Gruenberg has refused to join in this application despite such a *bona fide* attempt, the petition must include, *inter alia*, a statement of facts concerning the circumstances of the presentation of the application papers to Gruenberg at his last known address,[3] and his subsequent refusal.[4]

The petition and the accompanying exhibits indicate that counsel for Assignee had mailed Gruenberg a copy of the entire application (specification including claims), but Gruenberg

---

1 The application does not include drawings.

2 See MPEP section 409.03(d) (Rev. 1, Feb. 2003).

3 37 CFR 1.47(a); MPEP section 409.03(e) (Rev. 1, Feb. 2003).

4 See *supra* note 2.

expressed his refusal to join in in an e-mail to counsel.

In view of the above, the petition is thus granted. The 4/28/03 Declaration is hereby accepted.

The application is now complete.

In addition, as authorized in the petition, Deposit Account No. 03-1952 has been charged the $130 petition fee and the $65 surcharge (small entity) for lacking an acceptable oath/declaration upon filing of the application.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to Gruenberg at his last known address provided in the petition:

14665 Deerwood Street
Poway, CA 92064-6456

Notice of the filing of this application will also be published in the *Official Gazette*.

The application file is being forwarded to Technology Center 1600 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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Paper No. 9

MORRISON & FOERSTER LLP
3811 VALLEY CENTRE DRIVE
SUITE 500
SAN DIEGO CA 92130-2332

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JUN 1 2 2003

OFFICE OF PETITIONS

In re Application of
Gruenberg & Chavan
Application No. 10/246,647
Filed: September 17, 2002
Attorney Docket No. 549172000320
For: RE-ACTIVATED T-CELLS FOR ADOPTIVE IMMUNOTHERAPY

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed April 21, 2003 (certificate of mailing date April 15, 2003).

The petition is granted.

Petitioner has shown that the non-signing inventor, Micheal Gruenberg, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Kate H. Murashige and accompanying exhibits establish that the inventor was mailed and received the application papers, including the specification, claims and drawings, but the inventor refused to sign the declaration in an e-mail dated March 27, 2003 and addressed to Kate H. Murashige. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to Technology Center 1600 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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MICHEAL GRUENBERG
14665 DEERWOOD STREET
POWAY CA 92064-6456

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JUN 1 2 2003

OFFICE OF PETITIONS

In re Application of
Gruenberg & Chavan
Application No. 10/246,647
Filed: September 17, 2002
Attorney Docket No. 549172000320
For: RE-ACTIVATED T-CELLS FOR ADOPTIVE IMMUNOTHERAPY

LETTER

Dear Mr. Gruenberg:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: MORRISON & FOERSTER LLP
3811 VALLEY CENTRE DRIVE
SUITE 500
SAN DIEGO CA 92130-2332

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

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SEP 09 2008

OFFICE OF PETITIONS

In re Application of	:	
Yokota et al.	:	
Application No. 10/246,690	:	DECISION ON PETITION
Filed: September 19, 2002	:	
Patent No.7,318,039	:	
Issued: January 8, 2008	:	
Attorney Docket No. 500.42092X00	:	

This is a decision on the request under 37 CFR 3.81(b)[1] filed February 7, 2008 to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Petitioner indicates that the correct assignees are both Hitachi, Ltd. and Hitachi Plant Technologies, Ltd., and that Hitachi, Ltd. was incorrectly omitted from the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignees on the front page of the Letters Patent in the patent to be issued from the application.

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.

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[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Hitachi, Ltd. and Hitachi Plant Technologies, Ltd. are the assignees of record, which assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Also, the processing fee set forth in §. 1.17(i) ($130.00) has been charged to Deposit Account No. 50-1417 as authorized in the petition.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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)
6682040	2004-01-27	10246700	2002-09-19	0028-0005

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◯	3 ½ year	(1551)
◯	7 ½ year	(1552)
◯	11 ½ year	(1553)

Small Entity

	Fee	Code
◉	3 ½ year	(2551)
◯	7 ½ year	(2552)
◯	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

◯ A sole patentee

◯ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

◯ A joint patentee; all of whom are signing this e-petition

◯ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Glenn Snyder, Reg. No. 41428/	Date (YYYY-MM-DD)	2008-04-02
Name	Glenn Snyder	Registration Number	41428

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6682040
Issue Date: January 27,2004
Application No. 10246700
Filed: September 19,2002
Attorney Docket No. 0028-0005

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 2,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 2,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VOLENTINE FRANCOS, & WHITT
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON VA 20190

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SEP 1 9 2005

OFFICE OF PETITIONS

In re Patent No. 6,762,490 :
Issue Date: July 13, 2004 :
Application No. 10/246,740 : ON PETITION
Filed: September 19, 2002 :
Attorney Docket No. OKI.376 :

This is a decision on the petition under 37 CFR 1.182, filed March 9, 2005, requesting issuance of duplicate Letters Patent for the above-identified application.

The petition is granted.

The Publishing Division is directed to issue duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250 x 139.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent. This matter is being referred to Files Repository.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Krystal Paige, South Tower, 8C32 (Fax 703-746-4642)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BANNER & WITCOFF, LTD.
1001 G STREET, N.W.
WASHINGTON, D.C. 20001-4597

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AUG 2 6 2005

OFFICE OF PETITIONS

In re Patent No. 6,895,598 :
Issue Date: May 24, 2005 :
Application No. 10/246,753 : ON PETITION
Filed: September 19, 2002 :
Attorney Docket No. 005127.00300 :

This is a decision on the petition filed June 3, 2005, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct assignees' names on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] See Official Gazette of June 22, 2004

OIPE IAP65 DEC 15 2005 PATENT & TRADEMARK OFFICE

1771 IFW

PTO/SB/83 (04-05)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/246,769
Filing Date	09-19-2002
First Named Inventor	Dale Ryan
Art Unit	1771
Examiner Name	Torres Velazquez, Norca Liz
Attorney Docket Number	089171.

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

5-17-07
Approved
Jacqueline M. Stone
Jacqueline M. Stone, Director
Technology Center 1700/2900

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: I am leaving private practice, and the other attorneys listed on the power of attorney will continue representing Applicant

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					
Address					
City		State		Zip	
Country					
Telephone			Email		
Signature					
Name	Kevin A. Buford		Registration No.	34,786	
Date	12/14/05		Telephone No.	703-720-8600	

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 6,838,285
Inventor(s) : Farmer et al.
Issued : January 4,2005
Title : SITE SPECIFIC RECOMBINASE BASED METHOD FOR PRODUCING ADENOVIRAL VECTORS
Docket No. : CLON-070

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 petition, under 37 CFR 1.183, requesting the requirements of 37 CFR 3.81 to be waived, 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 petition to correct the Assignee under 37 CFR 1.183 should include:

A. the petition fee set forth in 37 CFR 1.117(h) (currently $130);
B. a request that 37 CFR 3.81(a) be waived to permit the correct name of the assignee to be provided;
C. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
D. 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 Petition, Applicant(s) may request that the file is forwarded to Certificates of Correction Branch, for issuance of a Certificates of Correction, if the Petition is granted.

Any petition under 37 CFR 1.183 should be directed to the attention of the Assistant Commissioner for Patents, using the following mailing address or FAX number.

By Mail:	Commissioner of Patents and Trademarks Mail Stop: Petitions Alexandria, VA 22313
By Fax:	(703) 308-6916 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

Ennis Young
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703)308-9390 ext.117 or (703) 305-8309

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

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DEC 30 2005

OFFICE OF PETITIONS

In re Patent No. 6,838,285 :
Issue Date: January 4, 2005 :
Application No. 10/246,782 : ON PETITION
Filed: September 17, 2002 :
Attorney Docket No. CLON-070 :

This is a decision on the petition under 37 CFR 1.183, filed on September 21, 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 Certificate of Correction.

37 CFR 3.81(b) 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.

Petitioner requests that the USPTO correct the assignment information on the front page of the patent to "Clontech Laboratories, Inc., Mountain View, CA." After reviewing the USPTO assignment records and the document submitted by petitioner, it appears that the assignee of record is "Clontech Laboratories, Inc., **Palo Alto, CA**," not Mountain View, CA.

The correct assignment information does not appear on the Certificate of Correction submitted with the present request pursuant to 37 CFR 3.81(b). Accordingly, the request is **dismissed** without prejudice upon the filing of a **renewed** request under 37 CFR 3.81(b), including a new request for a Certificate of Correction, which correctly identifies the assignment information as "Clontech Laboratories, Inc., Palo Alto, CA," within **two months** of the mailing date of this decision. No extensions of time are available and no additional fees are required upon filing the renewed request.

---

[1] *See* Official Gazette of June 22, 2004.

The finance records indicate that the USPTO mistakenly charged petitioner's Deposit Account an additional $270.00 fee. The current processing fee is $130.00 and the Certificate of Correction fee is $100.00. The Office will refund the overpayment of $170.00 to the Deposit Account.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX:
(571) 273-8300
Attn: Office of Petitions

By hand:
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

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JAN 31 2006

OFFICE OF PETITIONS

In re Patent No. 6,838,285 :
Issue Date: January 4, 2005 :
Application No. 10/246,782 : ON PETITION
Filed: September 17, 2002 :
Attorney Docket No. CLON-070 :

This is a decision on the renewed request under 37 CFR 3.81(b), filed January 12, 2006, to correct the assignment information on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

The matter is being referred to the Certificate of Correction Branch to issue the Certificate of Correction.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

KAGAN BINDER, PLLC
SUITE 200, MAPLE ISLAND BUILDING
221 MAIN STREET NORTH
STILLWATER, MN 55082

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FEB 0 7 2003

OFFICE OF PETITIONS

In re Application of	
Maniak, et al.	
Application No. 10/246,784	DECISION GRANTING
Filed: September 18, 2002	STATUS UNDER 37 CFR
Atty. Dkt. No.: PIL0148/US	1.47(a)
Title: VERTICALLY ORIENTED LAMINATED DOUGH PRODUCT	

This decision is in response to the petition under 37 CFR 1.47(a), filed December 23, 2002.

The petition is **GRANTED**.

Petitioner has shown that inventor Amy Kolbe has refused to join in the filing of the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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JUL 14 2008

OFFICE OF PETITIONS

QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

In re Application of :
LIAO, et al. :
Application No. 10/246,785 : DECISION ON PETITION
Filed: September 17, 2002 : TO WITHDRAW
Attorney Docket No. 36-002810US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 23,2007

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: TIMOTHY L. SMITH, PH.D.
GENOMICS INSTITUTE OF THE NOVARTIS
RESEARCH FOUNDATION
10675 JOHN JAY HOPKINS DRIVE, SUITE E225
SAN DIEGO, CA 92121

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

KAGAN BINDER PLLC
MAPLE ISLAND BUILDING
SUITE 200
221 MAIN STREET NORTH
STILLWATER MN 55082

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APR 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Boyle, et al. :
Application No. 10/246,795 : DECISION ACCORDING STATUS
Filed: September 18, 2002 : UNDER 37 CFR 1.47(a)
Attorney Docket No. PIL0147/US :

This is in response to the petition under 37 CFR 1.47, filed December 16, 2002, which is being treated as a petition under 37 CFR 1.47(a).

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on September 18, 2002, without an executed oath or declaration. Accordingly, on October 11, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring, *inter alia*, an executed oath or declaration. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition and paid the surcharge for late filing of the declaration. To make timely this reply, applicant included a Certificate of Mailing dated December 11, 2002. Accompanying the petition was a declaration signed by joint inventor Janet L. Boyle, but lacking a signature from joint inventor Amy B. Larson Kolbe.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

On petition, attorney Dale A. Bjorkman included a statement of facts from Karla Weiss. According to Weiss, Kolbe made an oral refusal to sign the declaration on November 8, 2002, and November

13, 2002. While the petition does not establish that Kolbe was presented with the application papers, but rather only a "description" of the documents, it is clear Kolbe understood what she was being asked to sign.[1]

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.[2] Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] A refusal 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...." MPEP 409.03(d).

[2] The declaration incorrectly lists Boyle as being the "third joint inventor" and Kolbe as being the "fifth joint inventor". As the declaration lists no other inventors, Boyle and Kolbe will be listed as the first and second inventors, respectively.

PETDAC

Customer No. 30173

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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MAR 04 2004
PATENT & TRADEMARK OFFICE

Paper No. 6

APR 22 2003

KAGAN BINDER PLLC
MAPLE ISLAND BUILDING
SUITE 200
221 MAIN STREET NORTH
STILLWATER MN 55082

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APR 18 2003
OFFICE OF PETITIONS

In re Application of
Boyle, et al.
Application No. 10/246,795
Filed: September 18, 2002
Attorney Docket No. PIL0147/US

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47, filed December 16, 2002, which is being treated as a petition under 37 CFR 1.47(a).

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on September 18, 2002, without an executed oath or declaration. Accordingly, on October 11, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring, *inter alia*, an executed oath or declaration. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition and paid the surcharge for late filing of the declaration. To make timely this reply, applicant included a Certificate of Mailing dated December 11, 2002. Accompanying the petition was a declaration signed by joint inventor Janet L. Boyle, but lacking a signature from joint inventor Amy B. Larson Kolbe.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

On petition, attorney Dale A. Bjorkman included a statement of facts from Karla Weiss. According to Weiss, Kolbe made an oral refusal to sign the declaration on November 8, 2002, and November

LV 4/29/03

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13, 2002. While the petition does not establish that Kolbe was presented with the application papers, but rather only a "description" of the documents, it is clear Kolbe understood what she was being asked to sign.

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.[2] Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] A refusal 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...." MPEP 409.03(d).

[2] The declaration incorrectly lists Boyle as being the "third joint inventor" and Kolbe as being the "fifth joint inventor". As the declaration lists no other inventors, Boyle and Kolbe will be listed as the first and second inventors, respectively.

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THORPE, NORTH & WESTERN, LLP
P.O. BOX 1219
SANDY, UT 84091-1219

COPY MAILED
JAN 19 2010

In re Patent No. 6,866,488 :
Issue Date: March 15, 2005 :
Application No. 10/246,798 : NOTICE
Filed: September 17, 2002 :
Attorney Docket No. 2865-T6954.CIP

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

The 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.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: David G. Miranda
Raytheon Company
870 Winter Street
Waltham, MA 02451-1449

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Washington, D.C. 20231
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Paper No. 6

KAGAN BINDER PLLC
MAPLE ISLAND BUILDING
SUITE 200
221 MAIN STREET NORTH
STILLWATER MN 55082

COPY MAILED

APR 17 2003

OFFICE OF PETITIONS

In re Application of :
Maniak, et al. :
Application No. 10/246,810 : DECISION ACCORDING STATUS
Filed: September 18, 2002 : UNDER 37 CFR 1.47(a)
Attorney Docket No. PIL0146/US :

This is in response to the petition under 37 CFR 1.47, filed December 23, 2002, which is being treated as a petition under 37 CFR 1.47(a).

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on September 18, 2002, without an executed oath or declaration. Accordingly, on October 17, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring, *inter alia*, an executed oath or declaration. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition and paid the surcharge for late filing of the declaration. To make timely this reply, applicant included a Certificate of Mailing dated December 16, 2002. Accompanying the petition was a declaration signed by joint inventors Douglas C. Maniak, Suan Y. DeWerff, and Sherri A. Slocum, but lacking a signature from joint inventor Amy B. Larson Kolbe.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

On petition, attorney Michaele A. Hakamaki, included a statement of facts from Karla Weiss. According to Weiss, Kolbe made an oral refusal to sign the declaration on November 8, 2002, and November 13, 2002. While the petition does not establish that

Kolbe was presented with the application papers, but rather only a "description" of the documents, it is clear Kolbe understood what she was being asked to sign.[1]

The instant petition has been reviewed and determined to be in compliance with 37 CFR 1.47(a). The declaration submitted with the petition has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 1700, Group Art Unit 1761, 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

[1] A refusal 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...." MPEP 409.03(d).

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AMY B LARSON KOLBE
1078 SILVERWOOD ALCOVE
WOODBURY MN 55125

COPY MAILED

APR 17 2003

OFFICE OF PETITIONS

In re Application of :
Douglas C. Maniak, Susan Y. DeWerff, :
Amy B. Larson Kolbe, and Sherri A. :
Slocum : LETTER
Application No. 10/246,810 :
Filed: September 18, 2002
Title: METHOD AND APPARATUS FOR CUTTING DOUGH WITH NESTED PATTERN CUTTERS

Dear Ms. Kolbe:

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

Michaele A. Hakamaki
Kagan Binder PLLC
Maple Island Building Suite 200
221 Main Street North
Stillwater MN 55082
651-276-9839

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Paper No. 14

MOLEX INCORPORATED
2222 WELLINGTON COURT
LISLE, IL 60532

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MAR 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Maxwill P. Bassler et al :
Application No. 10/246,829 : ON PETITION
Filed: September 19, 2002 :
Attorney Docket No. 99-322USCIP-CON1 :

This is a decision on the petition, filed March 29, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 15, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2833 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment and IDS.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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AUG 01 2008

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DNAX RESEARCH INC. LEGAL DEPARTMENT
901 CALIFORNIA AVENUE
PALO ALTO, CA 94304

In re Application of:	:
Karin Fraz-Bacon. et al.	:
Serial No.: 10/246,853	: PETITION DECISION
Filed: September 28, 2002	:
Attorney Docket No.: DX0744KB	:

This is in response to the petition under 37 CFR § 1.181, filed April 7, 2008, requesting that the finality of the Office action of February 6, 2008 be withdrawn.

BACKGROUND

The examiner mailed a non-final Office action on March 13, 2006 setting a three month statutory limit for reply. At the time of this non-final Office action claims 1-18 were pending in the application. The examiner withdrew claims 1-6 and 11-18 and examined claims 7-10 on their merits. Among other rejections, the examiner instituted a rejection of claims 7-10 under 35 U.S.C. 101 for lacking utility. The rejection in-part, stated:

> Claims 7-10 are rejected under 35 U.S.C. 101 because the claimed invention lacks is not supported by a specific, substantial, and credible asserted utility or a well-established utility. The claims are directed to binding compounds which specifically bind polypeptides defined by SEQ ID NO: 2. The specification, on page 24, lines 3-11, and pages 33-35, assert a number of utilities for the binding compounds of the instant application, including use as reagents for identification and purification of CRSP proteins. This utility is not specific because identification and purification of CRSP proteins can be performed with other reagents. Furthermore, because the specification does not require the binding compounds to recognize any specific epitope/region of the protein of SEQ ID NO: 2, a person of ordinary skill in the art would require significant, further research to determine if any polypeptide identified by the claimed binding composition is in fact a CRSP protein, and if so, how to use it. Therefore, this utility is not substantial. (See page 4, non-final Office action of March 13, 2006)

In brief, after the mailing of the non-final Office action of March 13, 2006 by the examiner, applicants replied to said Office action on August 14, 2006; the examiner mailed a final Office action on October 30, 2006; applicants replied to this final Office action by submitting an RCE on April 30, 2007 and the examiner then mailed a final Office action on June 27, 2007.

In response to the final Office action mailed by the examiner on June 27, 2007, applicants filed a proper RCE on October 30, 2007 concurrently with traversals of the examiner's rejections.

On February 6, 2008, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this final Office action, claims 7-10 and 18-25 were pending in the application. Claim 18 remained withdrawn from examination on the merits as being directed toward a non-elected invention. Claims 7-10 and 19-25 were examined on their merits. *Inter alia*, the examiner maintained the rejection of claims 7-10 and 19-25 under 35 U.S.C. § 101 asserting lack of utility of these claims.

In response thereto, applicants filed this petition under 37 CFR § 1.181 on April 7, 2008, requesting that the finality of the Office action of February 6, 2008 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed on April 7, 2008, applicants essentially argue that the examiner did not properly consider applicants' arguments set forth in the Remarks filed with the RCE of October 30, 2007. Applicants contend that the argument found in the response filed with the RCE on October 30, 2007 pertaining to the allegation that antibodies to C23 can be used in immunoassays to detect C23 in a sample were not considered by the examiner and therefore assert that the final Office action of February 6, 2008 was premature and improper. Specifically, applicants argue in their petition:

> A second (final) Office action was mailed on 6-February-2008 maintaining the rejection based on an alleged lack of utility. The rejection addressed the first proposed utility but failed to address (or mention) the second proposed utility referenced in paragraph 2 (*supra*), relating to detection of C23 in a sample. ***Because an Applicant need only disclose one utility to satisfy the requirements of 35 U.S.C. §101 (M.P.E.P. §2107.02(I)), this second proposed utility, if properly considered, may well have led to allowance of the claims.*** (page 2 of the Petition, emphasis added).

It is first noted that applicants' statement "*Because an Applicant need only disclose one utility to satisfy the requirements of 35 U.S.C. §101*" is not wholly correct, because the disclosed utility must also be specific, substantial and credible (M.P.E.P. §2107.02).

The specific argument applicants assert that the examiner failed to properly address is found on page 6 of the Remarks submitted with the RCE of October 30 2007: "[a]nother proposed use of antibodies to C23 is in immunoassays to detect the presence of C23 in a sample, for example in inflammatory or immunologically active tissue" (response filed with the RCE, p. 4, reiterated by applicants in the Petition).

While the examiner did not explicitly address applicants' arguments in the RCE which asserted that the claims of this application may be used in immunoassays to detect the presence of C23 and that this constitutes a specific utility, it is clear from the record of this case as a whole that the examiner has clearly established this diagnostic use does not constitute a specific utility. As plainly identified by the examiner in the first Office action mailed on March 13, 2006:

> The specification, on page 24, lines 3-11, and pages 33-35, assert a number of utilities for the binding compounds of the instant application, **including use as reagents for identification and purification of CRSP proteins. This utility is not specific because identification and purification of CRSP proteins can be performed with other reagents....**[t]he specification...**does not teach any biological function of the protein of SEQ ID NO:2, and does not teach a role for this protein in any specific diseases**...[the disclosure] is not sufficient to impart any real-world function or biological role of this protein, or it's [*sic*] role in any diseases. **The mere identification of a protein with homology or structural similarity to known proteins is not sufficient to establish utility, and even if it was, the percent homology/similarity to other proteins is not disclosed** " (see page 4, non-final Office action of March 13, 2006, emphasis added).

It is therefore evident that the first Office action on the merits set forth the understanding that all of the disclosed uses including using the claimed invention as a diagnostic tool in the identification of C23 proteins did not comply with 35 U.S.C. § 101.

Judging from the whole of the rejection set forth by the examiner in the final Office action of February 6, 2008 in light of the prosecution history and especially in light of the first Office action of March 13, 2006, there is a clear understanding in the prosecution of this case that the claimed invention lacks utility under 35 U.S.C. § 101; that is, that there is no use for the claimed invention set forth in the original disclosure as filed which would constitute a plausible specific, substantial and credible utility, including the disclosed use of the claimed invention for diagnostic testing. The basis for this understanding is readily apparent from the prosecution history. To reiterate above, the first Office action in the prosecution of this case, clearly indicated that there was no use set forth in the disclosure which provided for specific, substantial and credible utility including using the claimed binding product to assay for C23 proteins. Additionally, in the final Office action of February 6, 2008, the examiner firmly established that although applicants attempted to satisfy the utility requirement by submitting references which allegedly substantiated their allegations of specific utility; such allegations were improper because the references cited by applicants were published after the filing date of the instant application. For example, applicants alleged that the claimed invention was specific for C23 binding, and that C23 (SEQ ID NO:2) was shown to treat inflammatory conditions such as diabetes; however, the reference cited by applicants in support of their contentions was published after the filing date of the instant application. The examiner clearly pointed out that claims must have utility at the time the application is filed and that applicants' arguments and evidence were not found persuasive to overcome the outstanding rejection of claims 7-10 and 19-25 under 35 U.S.C. § 101.

It is clear that the examiner considered the alleged diagnostic utility in the first office action. Applicants' present assertion of a new diagnostic utility for a different disease is not timely because that assertion was not made at the time of filing.

It is thus decided that applicants' arguments are not persuasive that the final Office action issued February 6, 2008 was improper and premature. Therefore, the finality of the Office action will not be withdrawn.

DECISION

The petition is **DENIED.**

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.

John LeGuyader
Director, Technology Center 1600

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Paper No.

SCHERING-PLOUGH BIOPHARMA
LEGAL DEPARTMENT
901 CALIFORNIA AVENUE
PALO ALTO CA 94304

MAILED

JUN 15 2009

OFFICE OF PETITIONS

In re Application of :
Franz-Bacon et al. :
Application No. 10/246,853 : ON APPLICATION FOR
Filed: September 18, 2002 : PATENT TERM ADJUSTMENT
Atty Docket No. DX0744KB :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. § 1.705)(b) filed April 15, 2009. Applicants request that the patent term adjustment be corrected from four hundred seventy-two (472) days to nine hundred seventy-three (973) days. Referring to Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), applicants request this correction 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, 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 patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of

any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, 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 pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

It is acknowledged 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 –
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was first filed in this application on April 30, 2007.

The determination of the patent term adjustment at the time of the mailing of the notice of allowance remains four hundred seventy-two (472) days.

The Office acknowledges submission 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 of the revised patent term adjustment to be indicated on the patent 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 decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUN 22 2004

Paper No. 13

In re Application of
Rainer Benecke
Application No. 10/246,859
Filed: September 19, 2002
Attorney Docket No. IF-F8

: DECISION ON PETITION

This is a decision on the petition filed on April 23, 2004 by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to the Office letter dated September 4, 2003. The petition is being considered pursuant to 37 CFR 1.181, and no fee is required for the petition.

The petition is granted.

Petitioner alleges that the application is not abandoned because a timely and proper reply to the Office letter in question was in fact filed. Petitioner has supported this allegation by furnishing a copy of the reply. The reply has a 37 CFR 1.8(a) certificate of mailing affixed thereto, and dated December 4, 2003, a date within the time set for replying to the Office letter dated September 4, 2003. Pursuant to 37 CFR 1.8(b), this evidence is sufficient to establish that the application is not in fact abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the reply filed on December 4, 2003, and will thereafter be forwarded to the examiner for appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Patent Law Offices of Rick Martin, P.C.
416 Coffman Street
Longmont, CO 80501

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Terry Kresser
28029 Oak Lane
Bonita Springs FL 34135

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DEC 15 2005

OFFICE OF PETITIONS

In re Application of :
Terry KRESSER :
Application No. 10/246,879 : ON PETITION
Filed: September 19, 2002 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed July 27, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 19, 2004, which set a shortened statutory period for reply of one (1) month or thirty (30) days whichever is longer. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on January 20, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (2). The required fee for a petition to revive an unintentionally abandoned application is $750. Petitioner submitted $650. Therefore petitioner owes an additional $100 to satisfy the requirement under 37 CFR 1.17(m).

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand 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 of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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 MPP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the office will mail all future correspondence solely to the address of record

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries should be directed to the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Michael W. Starkweather
9035 So. 1300 E. Suite 200
Sandy, UT 84094

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Terry Kresser
28029 Oak Lane
Bonita Springs FL 34135

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JAN 13 2006

OFFICE OF PETITIONS

In re Application of	:	
Terry KRESSER	:	
Application No. 10/246,879	:	ON PETITION
Filed: September 19, 2002	:	
Attorney Docket No	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 5, 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 November 19, 2004, which set a shortened statutory period for reply of one (1) months or thirty days whichever is longer. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on January 20, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of November 19, 2004 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand 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 of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Application No. 10/246,879

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 MPP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the office will mail all future correspondence solely to the address of record

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3611 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Michael W. Starkweather
9035 So. 1300 E. Suite 200
Sandy, UT 84094

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)
6726364	2004-04-27	10246893	2002-09-19	POP-6

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	/Eric G. Zaiser reg no 58352/	Date (YYYY-MM-DD)	2008-06-19
Name	Eric G. Zaiser	Registration Number	58352

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6726364
Issue Date: April 27,2004
Application No. 10246893
Filed: September 19,2002
Attorney Docket No. H&P12BUB. POP

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 19,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 19,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 11

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA, BMP25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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OFFICE OF PETITIONS

In re Application of :
Richard J. Powell et al. :
Application No. 10/246,910 : ON PETITION
Filed: September 19, 2002 :
Attorney Docket No. AD6639USDIV :

This is a decision on the petition under 37 CFR 1.137(b), filed January 26, 2004, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Notice of Non-Compliant Amendment mailed April 23, 2003, which set period for reply of (1) One Month. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on May 24, 2003.

The application file is being forwarded to Technology Center AU 1713 for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

In re Application of
Kwang Jin Na
Application No. 10/246,934
Filed: September 19, 2002
Attorney Docket No. CU-2754 WWP

ON PETITION

This is a decision in response to the petition, filed February 6, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to a Notice of Non-Compliant Amendment mailed May 8, 2008. This decision precedes the mailing of a Notice of Abandonment. On February 6, 2009, the present petition was filed.

The petition is not signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Woochoon W. Park appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 2816 for appropriate action by the Examiner in the normal course of business.

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

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 3

Robert W. Beckwith
2794 Camden Road
Clearwater FL 33759

MAIL

NOV 2 7 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Robert W. Beckwith
Application No. 10/246,941
Filed: September 19, 2002
For: **WIRELESS TRANSCEIVERS USING A SIMPLIFIED PRISM II SYSTEM**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition to make special filed on September 19, 2002 under MPEP 708.02 (IV), applicant's age.

A petition to make special under MPEP 708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a birth certificate by applicant stating that he/she is sixty five (65) years of age or more. 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 will be forwarded to the examiner for action on the merits.

Reinhard J Eisenzopf

For Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

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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CRAIG W. RODDY
HALLIBURTON ENERGY SERVICES
P O BOX 1431
DUNCAN, OK 73536-0440

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SEP 0 8 2004

OFFICE OF PETITIONS

In re Application of
B. Raghava Reddy et al
Application No. 10/246,943
Filed: September 19, 2002
Atty Docket No. 2001-IP-006028U1

:DECISION ON PETITION UNDER
: 37 CFR 1.313(c)(3)

This is a decision on the petition, filed September 3, 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**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3). The above-identified application is expressly abandoned in favor of a continuing application under 37 CFR 1.53(b).[1]

It does not appear that the instant petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Ms. Priscilla Ferguson appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party On whose behalf she acts. A courtesy copy of this decision is being mailed to Ms. Ferguson, the petitioner herein.

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being forwarded to Files Repository.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Priscilla L. Ferguson
Haynes and Boone, LLP
901 Main Street, Suite 3100
Dallas, Texas 75202-3789

[1] The application papers and Information Disclosure Statement submitted with the instant petition have been forwarded to the Office of Initial Patent Examination for processing.

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

MCAFEE & TAFT
TENTH FLOOR, TWO LEADERSHIP SQUARE
211 NORTH ROBINSON
OKLAHOMA CITY, OK 73102

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MAR 2 6 2004

OFFICE OF PETITIONS

In re Application of
Hailey, Charles D.
Application No. 10/246,965
Filed: September 19, 2002
Title: Removal Of Tubulars From Wells

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed March 3, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on September 17, 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 1, 2004 accompanies this decision on petition.

This application is being forwarded to Technology Center AU 3672 to await a reply to the outstanding non-final Office action mailed November 24, 2003. Failure to timely reply will again result in the abandonment of the application.

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/246,969	09/19/2002	Debbie Ann Godwin	AUS920020403US1	2212

45993 7590 04/02/2009

IBM CORPORATION (RHF)
C/O ROBERT H. FRANTZ
P. O. BOX 23324
OKLAHOMA CITY, OK 73123

EXAMINER	
SHAW, YIN CHEN	

ART UNIT	PAPER NUMBER
2439	

MAIL DATE	DELIVERY MODE
04/02/2009	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

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IBM Corporation (RHF)
C/O Robert H. Frantz
Franklin Gray Patents, LLC
P.O. Box 23324
Oklahoma City, OK 73127

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APR 01 2009

TECHNOLOGY CENTER 2100

In re Application of:
Godwin
Application No. 10/246969
Filed: July 26, 2006
For: Security Health Checking Tool

DECISION ON PETITION TO RE-INSTATE APPEAL

This is a decision on the petition filed on September 21, 2008, requesting to re-instate the appeal, or alternatively to maintain the appeal and previously-paid fees be applied to the present submission. A new notice of appeal, a new appeal brief request for review and a statement in support of the new appeal brief request for review were filed on September 21, 2008.

MPEP § 1204.01 states in part that:

> If an appellant wishes to reinstate an appeal after prosecution is reopened, appellant must file a new notice of appeal in compliance with 37 CFR 41.31 and a complete new appeal brief in compliance with 37 CFR 41.37. Any previously paid appeal fees set forth in 37 CFR 41.20 for filing a notice of appeal, filing an appeal brief, and requesting an oral hearing (if applicable) will be applied to the new appeal on the same application as long as a final Board decision has not been made on the prior appeal ...

37 CFR § 41.50(a)(2)(ii) states in part that:

> Maintain appeal . Request that the appeal be maintained by filing a reply brief as provided in § 41.41. If such a reply brief is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the examiner under paragraph (a)(2)(i) of this section

Pursuant to MPEP § 1204.01 and 37 CFR § 41.50(a)(2)(ii), applicant can reinstate or maintain the appeal.

For the above stated reasons, the petition is **GRANTED.**

Thus, the Appeal Brief filed on September 21, 2008 will be entered and the previously paid appeal fees set forth in 37 CFR § 41.20 for filing a Notice of Appeal will be applied to the new appeal on this application. A $20.00 shortfall will be charged to applicant's deposit account.

Any inquiry concerning this decision should be directed to Tod Swann whose telephone is (571) 272-3612.

Tod Swann, WQAS
Technology Center 2400

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

DNAX RESEARCH INC.
LEGAL DEPARTMENT
901 CALIFORNIA AVENUE
PALO ALTO CA 94304

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OFFICE OF PETITIONS

In re Application No. 10/246,983 :
Franz-Bacon et al. :
Filing Date: September 18, 2002 : LETTER REGARDING
Attorney Docket No.: DX0744KB1 : PATENT TERM ADJUSTMENT
Title: C23 POLYPEPTIDES :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. § 1.705)(b)" filed July 29, 2008, pursuant to applicants' duty of good faith and candor. Applicants disclose that the patent term adjustment at the time of the mailing of the notice of allowance should be corrected from six hundred thirty-nine (639) days to six hundred ten (610) days.

The request for review of the patent term adjustment is **GRANTED**.

On April 30, 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 639 days. Applicants disclose that the patent term adjustment should be reduced by a period of 29 days, due to the submission of an Information Disclosure Statement (IDS) 29 days after the amendment that was submitted on February 12, 2008.

37 C.F.R. § 704(c)(8):

> 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, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

A review of the record confirms that the IDS was filed on March 12, 2008, 29 days after the filing of the amendment on February 12, 2008. The IDS was not expressly requested by the examiner and did not include a § 1.704(d) statement. As such, a period of reduction of 29 days should have been entered for Applicant delay.

The other periods of delay are not at issue.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 610 days (757 days of Office delay reduced by 147 days of applicant delay).

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 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Office of Data Management for issuance of the application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Day : Friday
Date: 12/19/2008

PALM INTRANET

Time: 16:14:58

PTA Calculations for Application: 10/246983			
Application Filing Date:	09/18/2002	PTO Delay (PTO):	757
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	118
Post-Issue Petitions:	0	Total PTA (days):	610
PTO Delay Adjustment:	-29		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
73	12/19/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		29	
58	04/30/2008	MAIL NOTICE OF ALLOWANCE			
57	04/28/2008	ISSUE REVISION COMPLETED			
56	04/28/2008	DOCUMENT VERIFICATION			
55	04/28/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
54	04/28/2008	CASE DOCKETED TO EXAMINER IN GAU			
53	04/25/2008	NOTICE OF ALLOWABILITY			
52	03/12/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
50	03/12/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	02/23/2008	DATE FORWARDED TO EXAMINER			
47	02/12/2008	RESPONSE AFTER NON-FINAL ACTION			
46	11/14/2007	MAIL NON-FINAL REJECTION			
45	11/13/2007	NON-FINAL REJECTION			
43	09/10/2007	DATE FORWARDED TO EXAMINER			
42	08/31/2007	RESPONSE AFTER NON-FINAL ACTION			
41	06/01/2007	MAIL NON-FINAL REJECTION			
40	05/29/2007	NON-FINAL REJECTION			
39	03/16/2007	DATE FORWARDED TO EXAMINER			
38	03/15/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
37	03/16/2007	DATE FORWARDED TO EXAMINER			
36	03/15/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		28	28
35	03/16/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			

34	03/15/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	03/15/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
32	02/21/2007	MAIL ADVISORY ACTION (PTOL - 303)			
31	02/20/2007	ADVISORY ACTION (PTOL-303)			
30	01/29/2007	DATE FORWARDED TO EXAMINER			
29	01/16/2007	AMENDMENT AFTER FINAL REJECTION			
28	11/15/2006	MAIL FINAL REJECTION (PTOL - 326)			
27	11/13/2006	FINAL REJECTION			
26	09/08/2006	DATE FORWARDED TO EXAMINER			
25	08/31/2006	RESPONSE AFTER NON-FINAL ACTION		90	22
24	08/31/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	03/13/2006	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
22	03/02/2006	MAIL NON-FINAL REJECTION			
21	02/21/2006	NON-FINAL REJECTION			
20	09/18/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	01/24/2006	DATE FORWARDED TO EXAMINER			
18	01/13/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
17	12/14/2005	MAIL RESTRICTION REQUIREMENT	757		-1
16	12/12/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
15	11/30/2005	CASE DOCKETED TO EXAMINER IN GAU			
14	02/06/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	04/02/2003	CASE DOCKETED TO EXAMINER IN GAU			
12.7	09/18/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	09/18/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	09/18/2002	PRELIMINARY AMENDMENT			
10	10/11/2002	APPLICATION DISPATCHED FROM OIPE			
9	10/10/2002	APPLICATION IS NOW COMPLETE			
7	10/08/2002	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
6	10/08/2002	CLEARED BY L&R (LARS)			
5	10/08/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
4	09/28/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			

3	09/26/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	09/18/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	09/18/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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LEGAL DEPARTMENT
901 CALIFORNIA AVENUE
PALO ALTO CA 94304

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OFFICE OF PETITIONS

In re Patent No. 7,482,426	:	
Franz-Bacon et al.	:	DECISION ON
Application No. 10/246,983	:	REQUEST FOR
Issue Date: January 27, 2009	:	RECONSIDERATION OF
Filed: September 18, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No. DX0744KB1	:	UNDER 37 CFR 1.705
	:	and
	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED ON PATENT UNDER 37 C.F.R. §1.705(d), filed March 26, 2009. Patentee requests that the determination of patent term adjustment be corrected from five hundred forty-eight (548) days to one thousand one hundred twenty-four (1124) days.

The request for reconsideration of patent term adjustment is **GRANTED TO THE EXTENT INDICATED.**

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of six hundred sixty-eight (668) days.

Patentees are given THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer, from the mail date of this decision to respond to this decision. No extensions of time will be granted under § 1.136.

On January 27, 2009, the above-identified application matured into U.S. Patent No. 7,482,426, with a revised patent term adjustment of 548 days. On March 26, 2009, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 1124 days. Patentee maintains that the determination is in error for two reasons. First, patentee states they were erroneously charged with a 120 day delay based on a Request for Reconsideration of Communication Regarding the Atomic Energy Act of 1954. Second, patentee argues the PTA is in error due to the Office's improper interpretation of the PTA provisions as discussed in Wyeth v. Dudas[1]. Patentee asserts that pursuant to Wyeth, no Office delay accumulated within the first three years after the filing date can be said to "overlap" with delays under §154(b)(1)(B), which by definition do not arise until after three years from the filing date. Accordingly, patentee maintains entitlement to an additional 543 non-overlapping days for Office delay pursuant to 37 CFR 1.702(b).

With regard to the delay under 37 CFR 1.704(c)(10), patentee is correct that the period of reduction of 120 days is not warranted. As stated in MPEP 2732,

> 37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process. Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s)

[1] 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008).

> Transmittal (PTOL- 85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office).

A review of the record confirms that the paper filed May 30, 2008 is such a paper, a letter related to government interest. Accordingly, the filing of the letter is deemed not to be a failure to engage within the meaning of 37 CFR 1.704(c)(10). The period of reduction of 120 days is being removed. The total applicant delay is corrected from 267 to 147 days.

However, with regard to the delay under 37 CFR 1.702(b), entry of an additional period of adjustment of 543 days is not warranted. With regard to the argument under 37 CFR 1.702(b), patentee's interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[2] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C.

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[2] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application (or, in an international application, the date that the national stage commenced under 35 U.S.C. 371(b) or (f)), is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C.

154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date, September 18, 2002, and ending with the filing of a request for continued examination (RCE) (There were no other periods excluded under 35 U.S.C. 154(b)(1)(B)(ii)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 542 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application (i.e. beginning on September 19, 2005, the day after the date three years after the filing date of the application and ending on March 14, 2007, the day before the date of filing of the RCE). Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 757 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the request for continued examination. (Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(4), 58 days of patent term adjustment were according during the pendency of the application subsequent to the filing of the request for continued examination).

The 542 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 757 days of patent term adjustment under 37 CFR 1.702(a)(1), accorded prior to the filing of the request for continued examination. Entry of both the 542 days and the 757 days is neither permitted nor warranted. Considering the overlap, no additional days of patent term adjustment pursuant to 37 CFR 1.702(b) were entered.

815 days (757 the actual number of days as of the filing of the RCE + 58 the actual number of days after the filing of the RCE) is the actual number of days issuance of the patent was delayed by the Office. Considering the applicant delay of record at issuance of 267 days (which did not include the removal of 120

days of reduction by this decision), the patent issued with a revised patent term adjustment of 548 (815 - 267) days.

No change to the determination pursuant to 37 CFR 1.702(b) is being made.

CONCLUSION

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. Given the granting of the request for reconsideration to the extent that the period of reduction of 120 days is being removed, the Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by six hundred sixty-eight **(668)** 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 the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Encl: DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,482,426 B2

DATED : **January 27, 2009** **DRAFT**

INVENTOR(S) : Franz-Bacon 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 548 days

Delete the phrase "by 548 days" and insert – by 668 days--

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MR. CHRISTOPHER JOHN ROURK
GODWIN GRUBER, LLP
1201 ELM STREET, RENAISSANCE TOWER
DALLAS, TX 75270

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OFFICE OF PETITIONS

In re Application of :
Seyed-Ali Hajimiri, et al. :
Application No. 10/246,998 : ON PETITION
Filed: September 19, 2002 :
Attorney Docket No. 121744-0025-B75205CIP :

This is a decision on the petition under 37 CFR 1.137(b), filed July 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 April 20, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on July 20, 2004.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), it will be interpreted as the required statement. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The Revocation of Power of Attorney and Change of Correspondence Address has been previously accepted and recorded.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application file is being forwarded to the Publishing Division for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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PATENT DEPARTMENT
2001 ROSS AVENUE
SUITE 2300
DALLAS, TX 75201

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OFFICE OF PETITIONS

In re Application of :
Coleman et al. :
Application No. 10/247,001 : ON PETITION
Filed: September 19, 2002 :
Attorney Docket No. 24140035.4 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed July 22, 2004.

The deficiency payment of $665 is accepted.

The change of status to large entity has been entered and made of record.

The file is being forwarded to Files Repository.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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PHARMACIA CORPORATION
GLOBAL PATENT DEPARTMENT
POST OFFICE BOX 1027
ST. LOUIS, MO 63006

In re Application of
Suzanne Metz, et al.
Application No. 10/247,028
Filed: September 19, 2002
Attorney Docket No. SO3404/11

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed June 27, 2006.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before April 14, 2005. A Notice of Abandonment was mailed on July 22, 2005. In response, on June 27 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite issue/publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Publications to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

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OFFICE OF PETITIONS

In re Application of :
MacInnis et al. :
Application No. 10/247,044 : DECISION ON PETITION
Filed: September 19, 2002 :
Attorney Docket No. 13359US02 :

This is a decision on the petition, filed February 27, 2008, under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application. Alternatively, petitioner also seeks a petition under the unintentional provisions of 37 CFR 1.137(b).

The petition under 1.181 is **DISMISSED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before January 2, 2008, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed October 2, 2007. A Notice of Abandonment was mailed January 25, 2008.

Petitioner asserts that the Notice dated October 2, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the non-received Notice would have been entered had it been received must be attached to and referenced in the practitioner'statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy all of the above-stated requirements.

As to items 1 and 2, the Declarations submitted with the instant petition were not from the practitioner, but rather by paralegals of the firm. The statement in regard to the Notice not being received, as well as the statement attesting to a file jacket and docket records search must come from a registered practitioner.

As to item 3, a copy of the docket record was not provided with the instant petition.

Accordingly, since the petitioner failed to provide the required evidence needed to establish non-receipt, the petition requesting withdrawal of the holding of abandonment is hereby dismissed.

The petition under 1.137(b), however, 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 payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

This application is being referred to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this decision should be directed to Petitions Examiner, Alicia Kelley at (571) 272-6059.

Liana Walsh
Petitions Examiner
Office of Petitions

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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE WA 98111-1247

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JUN 0 6 2008

In re Application of	:	
Stein et al.	:	
Application No.: 10/247074	:	ON PETITION
Filing or 371(c) Date: 09/18/2002	:	
Attorney Docket Number:	:	
418268601US1	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed November 26, 2007.

This Petition is hereby granted.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed February 5, 2007. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on May 6, 2007. A Notice of Abandonment was mailed October 11, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee; and (3) a proper statement of unintentional delay.

The application is being referred to Technology Center Art Unit 2614 for processing of the Amendment/reply filed with the petition in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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SEATTLE WA 98111-1247

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OFFICE OF PETITIONS

In re Application :
Stein, et al. :
Application No. 10/247,074 : PATENT TERM ADJUSTMENT
Filed: September 18, 2002 :
Dkt. No.: 418268601US1 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(B)," filed November 20, 2008.

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) is **HELD IN ABEYANCE**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) was mailed October 14, 2008. The instant application for PTA was timely filed November 20, 2008 along with the issue fee payment. Applicants argue that the application is entitled to an adjustment of 1,779 days, which would include an adjustment of 650 additional days under the provisions of 37 CFR 1.702(b).

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date of the application. 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).

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).

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
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Docket No.: 418268601US1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Adam STEIN et al.

Application No.: 10/247,074 | Confirmation No.: 1023

Filed: September 18, 2002 | Art Unit: 2614

For: DELIVERY OF AUDIO DRIVING DIRECTIONS VIA A TELEPHONE INTERFACE | Examiner: Q. Nguyen

APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705(B)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicant requests reconsideration of the patent term adjustment indicated in the Notice of Allowance of October 14, 2008.[1]

(1) Applicant is including the fee set forth in 37 C.F.R. § 1.18(e). Please charge any deficiencies or credit any overpayment to our Deposit Account No. 50-0665, under Order No. 418268601US1 from which the undersigned is authorized to draw.

[1] Applicant's representative, Maurice Pirio, discussed issues relating to the filing of this Application with Mr. Kery Fries of the U.S.P.T.O. on November 20, 2000. Mr. Fries advised that, since the U.S.P.T.O. is holding applications such as this one in abeyance until issuance of the patent, applicant may wait until the time of issuance and file an application under 37 C.F.R. § 1.705(d), rather than file this Application. (See, also, "Decision Holding PTA Request in Abeyance Until After Issue Date," U.S. Patent Application No. 10/274,829, Jan. 30, 2007.) It appears, however, that there may be some question as to whether the 37 C.F.R. § 1.705(b) requires filing such an application no later than the payment of the issue fee. In an abundance of caution, applicant is therefore filing this application along with the issue fee. Applicant apologizes for any inconvenience this may cause.

(2) Statement of Facts

(i) Correct Patent Term Adjustment and Bases for Adjustment

The correct patent term adjustment is 1779 days. The PTO's calculated patent term adjustment is 1129 days. Applicant is entitled to an additional 650 days of patent term adjustment.

The PTO properly accounted for the delay under 35 U.S.C. § 1.54(b)(1)(A), referred to as the "A delay." The A delay is 1331 days.

The PTO failed to properly account for the delay under 35 U.S.C. § 1.54(b)(1)(B), referred to as the "B delay." The B delay, assuming that the patent will issue on April 21, 2008[2], is 1311 days.

The PTO failed to properly account for the overlap under 35 U.S.C. § 1.54(b)(2)(A) in the A delay and the B delay. The overlap is 661 days.

The PTO properly accounted for the reduction in patent term adjustment under 35 U.S.C. § 1.54(b)(2)(C). The reduction is 202 days.

The correct patent term adjustment is the sum of the A delay and the B delay minus the overlap and minus the reduction. Thus, the correct patent term adjustment is 1331+1311-661-202, which is 1779 days.

[2] The PTO's calculation of patent term adjustment assumed this to be the issue date in the "Determination of Patent Term Adjustment under 35 U.S.C. § 154(b)" that was included with the Notice of Allowance.

(ii) Relevant Dates

A Delay		
Filing Date	09/18/2002	↓
First Office Action	02/08/2007	1178
Reply	11/26/2007	↓
Notice of Allowance	08/26/2008	153
Total		1331

B Delay		
Filing Date	09/18/2002	↓
Projected Issue Date	04/21/2009	1311
Total		1311

Overlap		
3-Year Date	09/18/2005	↓
First Office Action	02/08/2007	508
Reply	11/26/2007	↓
Notice of Allowance	08/26/2008	153
Total		661

Reduction		
First Office Action	02/08/2007	↓
Reply	11/26/2007	202
Total		202

(iii) Terminal Disclaimer

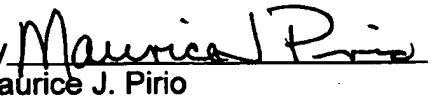
The patent is not subject to a terminal disclaimer.

(iv) Failure to Engage in Reasonable Efforts

Applicant is not contesting the reduction in patent term adjustment of 202 days as accounted for by the PTO that are "deemed" to be a failure to engage in reasonable efforts under 37 C.F.R. § 1.704. There were no other circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the application under 37 C.F.R. § 1.704.

Dated: November 20, 2008

Respectfully submitted,

By 

Maurice J. Pirio
Registration No.: 33,273
PERKINS COIE LLP
P.O. Box 1247
Seattle, Washington 98111-1247
(206) 359-8548
(206) 359-4265 (Fax)
Attorney for Appellant

SCANI **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/8/08 Paper No.: _____

TO SPE OF : ART UNIT 1623 Krishnan, Ganapathy

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/247099 Patent No.: 7071181

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

XXX☒ Approved — All changes apply.

☐ Approved in Part — Specify below which changes do not apply.

☐ Denied — State the reasons for denial below.

Comments: The C of C has been approved.

/S. A. Jiang/ 1623

SPE Art Unit

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CH-KCC

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WASHINGTON, D.C. 20231
www.uspto.gov

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STATELINE NV 89449

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OFFICE OF PETITIONS

In re Application of :
William C. Plants :
Application No. 10/247,114 : ON PETITION
Filed: September 18, 2002 :
Attorney Docket No ACT-293COA :

This is a decision on the petition, filed May 5, 2003, under 37 CFR 1.313(c)(1) 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 due to unpatentability of one or more claims. See 37 CFR 1.313(c)(1).

The application is hereby withdrawn from issue.

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center 2181.

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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UNITED STATES PATENT AND TRADEMARK OFFICE
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MAY 0 9 2003

OFFICE OF PETITIONS

In re Application of :
William C. Plants :
Application No. 10/247,114 : ON PETITION
Filed: September 18, 2002 :
Attorney Docket No. ACT-293COA :

This is a decision on the petition, filed May 5, 2003, under 37 CFR 1.313(c)(1) 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 due to unpatentability of one or more claims. See 37 CFR 1.313(c)(1).

The application is hereby withdrawn from issue.

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center 2181.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 17 2004

In re Application of	:	
Raymond G. Taylor	:	NOTICE OF WITHDRAWAL
Serial No. 10/247,129	:	FROM ISSUE
Filed: September 19, 2002	:	UNDER 37 CFR 1.313(b)
For: FRYING APPARATUS WITH CLOSED LOOP: COMBUSTION CONTROL AND METHOD	:	

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 at Milton Cano (571) 272-1398.

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

Paul D. Greeley, Esq.
Ohlandt, Greeley, Ruggiero & Perle, LLP
10th Floor
One Landmark Square
Stamford, CT 06901-2682

cc: Allowed Files—Pk3-910

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

James V. Costigan, Esq.
Hedman & Costigan, P.C.
Suite 2003
1185 Avenue of the Americas
New York, NY 10036-2646

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DEC 0 2 2002

OFFICE OF PETITIONS

In re Application of	:	
Tsumori et al.	:	
Application No. 10/247,167	:	DECISION GRANTING
Filed: September 19, 2002	:	PETITION
Attorney Docket No. 712-043	:	

This is a decision on the petition filed October 28, 2002, to establish that page 36 of the specification was part of the originally filed application.

On September 19, 2002, the application was filed.

On October 16, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of September 19, 2002, and advising applicants that page 36 of the specification appeared to have been omitted.

In response, the present petition was filed alleging that page 36 was deposited on September 19, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "Specification/41pgs" on September 19, 2002.[1] Petitioner has also submitted a copy of the missing documentation- page 36 of the specification.

Upon review of the record, page 36, deposited on September 19, 2002, has not been located. However, the evidence is convincing that the application papers deposited on September 19, 2002, included page 36, and that page 36 was subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of page 36 submitted with the petition will be used for examination purposes.

No petition fee is required and none has been charged.

The Notice mailed October 16, 2002, was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 19, 2002, using the application papers filed on September 19, 2002, and the copy of page 36 of the specification filed on October 28, 2002.

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

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APR 0 7 2003

OFFICE OF PETITIONS

ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD, CT 06905-5619

In re Application of :
Wolff, et al. :
Application No. 10/247,176 : DECISION GRANTING STATUS
Filed: September 19, 2002 : UNDER 37 CFR 1.47(a)
Attorney Docket No.: 02581-P0480A :
For: MEDICAL TOOL :

This is in response to the petition under 37 CFR 1.47(a), filed March 3, 2003.

The petition is **GRANTED**.

Petitioner has shown that inventor Dov Klein has refused to join in the filing of the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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DOV KLEIN
8 HARISHHONIM STREET
SAVION 56512
ISRAEL

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APR 0 7 2003

OFFICE OF PETITIONS

In re Application of
Wolff, et al.
Application No. 10/247,176
Filed: September 19, 2002
Attorney Docket No.: 02581-P0480A
For: MEDICAL TOOL

LETTER

Dear Sir:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 04062006

DATE : 03-31-06

TO SPE OF : ART UNIT 3723

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/347209 ___ Patent No.: 6971951

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE

3723
Art Unit

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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

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OFFICE OF PETITIONS

In re Application of :
Kenneth A. Harbaugh :
Application No. 10/247,230 : ON PETITION
Filed: September 19, 2002 :
Attorney Docket No. 45639-276749 :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed September 20, 2004.

The application became abandoned for failure to pay the issue fee on or before August 11, 2004. Receipt is acknowledged of the requisite issue fee on September 20, 2004.

The petition is **GRANTED**.

The application is being forwarded to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (703) 305-8283.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 7

THEODORE NACCARELLA
SYNNESTVEDT & LECHNER
1101 MARKET STREET
SUITE 2600
PHILADELPHIA, PA 19107-2950

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FEB 26 2004

OFFICE OF PETITIONS

In re Application of :
Stephen Babinetz et al :
Application No. 10/247,242 : ON PETITION
Filed: September 19, 2002 :
Attorney Docket No. P-26,065 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 30, 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 October 23, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 24, 2002.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to the Office of Initial Patent Examination.

Wan Laymon
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

KULICKE AND SOFFA INDUSTRIES, INC.
1005 VIRGINIA DRIVE
FORT WASHINGTON PA 19034

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AUG 2 4 2006

OFFICE OF PETITIONS

In re Application of :
Babinetz et al. :
Application No. 10/247,242 : ON PETITION
Filed: September 19, 2002 :
Attorney Docket No. KSI-311US :

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181 filed on February 14, 2005.

The petition to withdraw the holding of abandonment is **GRANTED**

This above-identified application was held abandoned for failure to timely reply to the restriction requirement mailed June 11, 2004. The Restriction Requirement set a one (1) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application was held abandoned on July 12, 2004. A Notice of Abandonment was mailed on January 12, 2005.

Petitioner asserts that a reply to the restriction requirement was submitted on July 14, 2004 with a certificate of mailing dated July 12, 2004. As evidence, petitioner has submitted a copy of a return postcard date stamped by the Office acknowledging receipt of the reply on July 14. 2004. Additionally, petitioner has supplied a copy of the previously mailed correspondence which contains a certificate of mailing of July 12, 2004 and a statement by the person with first hand knowledge who executed the certificate of mailing.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

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.

This application is being forwarded to Art Unit 2812 for further processing of the reply to the restriction requirement.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Theodore Naccarella
Synnestvedt & Lechner LLP
2600 Aramark Tower
1101 Market Street
Philadelphia, PA 19107

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JJGJr : 12-07

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JAN 0 4 2008

OFFICE OF PETITIONS

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

In re Application of :
Ball :
Application No. 10/247,247 : DECISION
Filed: 19 September, 2002 :
Attorney Docket No. 5564-138 :

This is a decision on the petition filed on 5 September, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181, and, in the alternative, one under 37 C.F.R. §1.137(b) to revive the application as 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 as considered under 37 C.F.R. §1.181 is **DISMISSED** the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 4 December, 2006, with reply due on or before 4 March, 2007;
- Petitioner filed a reply in the form of an amendment with request and fee for extension of time on 4 June, 2007;
- on 22 June, 2007, the Examiner mailed a Notice that the amendment was not responsive to the Office action, referencing particularly Petitioner's failure to address Claims 14 and

15, and noted therein that the period for reply was constrained by the expiration of the statutory period;

- the application went abandoned after midnight 4 June, 2007;

- on 3 July, 2007, Petitioner filed a second reply;

- on 10 August, 2007, the Examiner mailed a Notice that the second amendment was not responsive to the Office action, referencing particularly Petitioner's failure to address Claims 14 and 15, and noted therein that the period for reply was constrained by the expiration of the statutory period;

- it does not appear that the Office mailed a Notice of Abandonment before the instant petitions were filed;

- on 5 September, 2007, Petitioner filed, *inter alia*, the instant petitions, and:

  —with the request to withdraw the holding of abandonment, Petitioner set forth a complex history of allegations of bias on the part of the Examiner, which Petitioner sets forth what he avers is a comparison/contrast of transactions by the Examiner in the application of Petitioner's Applicant with the transactions by the Examiner in the application of a competitor of Petitioner's Applicant; while

  —with the petition to revive (and fee), Petitioner submitted a reply in the form of an amendment and made the statement of unintentional delay.

Notably, Petitioner appears not to have made the showings with regard to a request to withdraw the holding of abandonment as those requirements are set forth in the guidance at the Commentary at MPEP §711.03(c)(I)(A) and/or (B). And the prosecution of the application of a competitor of Petitioner's Applicant is not material to withdrawal of the holding of abandonment in this matter.

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]

---

[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).

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.

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 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.

See specifically, the regulations at 37 C.F.R. §10.18.

[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).

[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.

(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, 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.

As noted above, Petitioner appears to have failed to make any of the showings for a request to withdraw the holding of abandonment as those requirements are set forth in the guidance at the Commentary at MPEP §711.03(c)(I)(A) and/or (B).

Rather, it appears that Petitioner has: (a) ignored the twice-offered direction set forth in the Office action mailed by the Examiner to address the Examiner's rejections as to Claims 14 and 15; and (b) demanded that the Examiner be removed from the case.

One does not submit a proper reply to and Office action mailed by the Examiner when one ignores the express substance of that Office action.

One does not ignore the showing requirements for withdrawal of the holding of abandonment and expect to obtain such relief.

It appears that Petitioner has failed to satisfy his burdens in this matter.

As to Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a proper reply, a statement/showing of unintentional delay, and–where appropriate—a terminal disclaimer and fee.

It appears that Petitioner has satisfied the regulatory requirements.

---

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

CONCLUSION

Petitioner appears to have failed to satisfy the burdens such that the petition to withdraw the holding of abandonment as considered under 37 C.F.R. §1.181 is **dismissed** (again, there does not appear that a Notice of Abandonment was mailed before the instant petition was filed); the petition under 37 C.F.R. §1.137(b) is **granted** and the fee charged as authorized to Deposit Account 19-1970.

The instant application is released to Technology Center AU 3751 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[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.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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JERRY K. MUELLER, JR.
MUELLER AND SMITH, L.P.A.
7700 RIVERS EDGE DRIVE
COLUMBUS, OH 43235-1331

COPY MAILED

APR 15 2005

OFFICE OF PETITIONS

In re Application of :
Ben N. Dillon :
Application No. 10/247,249 :
Filed: September 19, 2002 :
Attorney Docket No. DIL 2-006 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition "Conditional Petition to Revive", filed March 11, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on December 15, 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 months 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.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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)
6910845	2005-06-28	10247249	2002-09-19	DIL 2-006

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	/J.K. Mueller, Jr./	Date (YYYY-MM-DD)	2009-08-11
Name	Jerry K. Mueller, Jr.	Registration Number	27576

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. 6910845
Issue Date: June 28,2005
Application No. 10247249
Filed: September 19,2002
Attorney Docket No. DIL 2-006

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 11,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 11,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Paper No.: _____

DATE : 6/12/09

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10247263 Patent No.: 7489724 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

Chuck Mis Jan 2611

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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PSC SCANNING, INC. – STOEL RIVES LLP
C/O STOEL RIVES LLP
900 SW 5TH AVENUE, SUITE 2600
PORTLAND, OR 97204

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AUG 2 6 2005

OFFICE OF PETITIONS

In re Application of :
Edward C. Bremer et al :
Application No. 10/247,278 : ON PETITION
Filed: September 18, 2002 :
Attorney Docket No. 51306/201:1

This is a decision on the petition, filed August 25, 2005 under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2876 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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AUG 0 4 2004

OFFICE OF PETITIONS

In re Application of :
Akihiko Kobayashi :
Application No. 10/247,280 :
Filed: September 20, 2002 :
Attorney Docket No. 03500.016778 :

ON PETITION

This is a decision on the petition, filed August 3, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 6, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 2833 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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 PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GO

Paper No. 6

OBLON SPIVAK MCCLELLAND MAIER &
NEUSTADT P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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JUL 0 1 2003

OFFICE OF PETITIONS

In re Application of
Dai Nakajima et al
Application No. 10/247,289
Filed: September 20, 2002
For: SEMICONDUCTOR DEVICE

: DECISION GRANTING
:STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed March 17, 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 the Initial Patent Examination Unit.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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JAN 14 2008

OFFICE OF PETITIONS

In re Application of
Yingdong Lou, et al.
Application No. 10/247,290
Filed: September 20, 2002
Attorney Docket No. 2127.0010001

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 1, 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 Donald J. Featherstone on behalf of all attorneys of record who are associated with customer No. 26111.

All attorneys/agents associated with the Customer Number 26111 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed August 9, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MR. YINGDONG LOU
I.E. CONTROL SOLUTIONS, INC.
5809 OGDEN CT
BETHESDA, MD 20815

cc: MR. YINGDONG LOU
I.E. CONTROL SOLUTIONS, INC.
1313 DOLEY MADISON BLVD.
SUITE 305
MCLEAN, VA 22101

cc: MR. TAO LI
4875 DUFFURIN, #712
MONTREAL, PQ, CA H3X 2Z2
CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/247,290	09/20/2002	Yingdong Luo	2127.0010001

CONFIRMATION NO. 1676

POWER OF ATTORNEY NOTICE

26111
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Date Mailed: 01/14/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/01/2007.

- 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.

/jsmalls/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JAN 2 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Application of
Hideyuki KIDANI, et al.
Application No. 10/247,311
Filed: September 20, 2002
For: **JOB PROCESSING APPARATUS**

: DECISION ON PETITION

This is a decision on the Petition to Withdraw Erroneous Notice of Abandonment filed October 31, 2004, pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The application was held abandoned for failure to respond in a timely manner and effective manner to the Office communication mailed February 27, 2004. A Notice of Abandonment was mailed September 27, 2004.

Petitioner alleges to have timely filed a response to said Office communication on May 26, 2004. In support thereof, Petitioner provided evidence in the way of a copy of the response filed May 26, 2004 which included a date stamped post card receipt which itemizes the receipt of an amendment on May 26, 2004.

A review of the file records reveals that the original amendment filed on May 26, 2004 has been located and matched with the file.

In view of the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Any inconvenience caused petitioner is regretted.

The petition is **GRANTED.**

The application file is being forwarded to the Technology Center's technical support staff for entry of the May 26, 2004 response. From there, the file will be forwarded to the examiner for further action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

SPE: T. Smith

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/23/07

TO SPE OF : ART UNIT 2626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/247,311 Patent No.: 6985257

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 scope is not affected.

_____ 2625

SPE **Art Unit**

03560.002245.1 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of:	)	
	:	Examiner: Jerome Grant, II
HIDEYUKI KIDANI, ET AL.	)	
	:	Group Art Unit: 2626
Appln. No.: 10/247,311	)	
	:	Patent No.: 6,985,257 B2
Filed: September 20, 2002	)	
	:	Issued: January 10, 2006
For: JOB PROCESSING APPARATUS	)	
	:	June 15, 2007

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION
UNDER RULES 322 AND 323

Sir:

It is respectfully requested that a Certificate of Correction be issued by the Patent and Trademark Office due to errors which appear in the printed patent as a result of Patent and Trademark Office mistakes, and mistakes of a clerical, typographical, or minor character, which were not the fault of the Patent and Trademark Office. A Certificate of Correction form (Form PTO-1050) is enclosed.

The $100.00 fee for the Certificate of Correction is being paid electronically. However, the Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1205.

Patentees' undersigned attorney may be reached by telephone in our Washington, D.C. office at (202) 530-1010. All correspondence should be directed to our address given below.

Respectfully submitted,

/Daniel S. Glueck/
Daniel S. Glueck
Attorney for Patentees
Registration No. 37,838

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800
Facsimile: (212) 218-2200

DSG:eyw

Staple Here Only!

PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,985,257 B2

DATED : January 10, 2006

INVENTOR(S) : Hideyuki Kidani, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

COLUMN 13

Line 28, "processin" should read --processing--.

COLUMN 32

Line 13, "lob" should read --job--.
Line 32, "and" should be deleted.
Line 33, "performing a printing process by analyzing the spooled" should be deleted.
Line 34, "printing data in units of a job," should be deleted.
Line 37, "changing," should begin a new paragraph.

MAILING ADDRESS OF SENDER:
FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800
(212) 218-2100 - Telephone
(212) 218-2200 - Facsimile

PATENT NO. 6,985,257 B2

No. of add'l. copies @ 30¢ per page

Form PTO 1050 (Rev. 3-82)
FCHS_WS 1409381 v1

SPE: T. Smith

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/23/07

Paper No.: _____

TO SPE OF : ART UNIT 2626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/247,311 Patent No.: 6985257

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 scope is not altered

SPE

2625
Art Unit

DEC 31 2003
PATENT & TRADEMARK

Pet. Dec.

P22724.A03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Jung-O AN

Serial No : 10/247,346

Filed : September 20, 2002

Group Art Unit : 1731

Examiner : Dionne A. Walls

For : CIGARETTES CONTAINING GOLD OR SILVER PARTICLES AND MANUFACTURING METHODS OF THE CIGARETTE FILTER

WITHDRAWAL AS ATTORNEYS OF RECORD

RECEIVED
JAN 16 2004
TC 1700

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The undersigned Counsel hereby requests withdrawal of representation in connection with the above-captioned application for each of the attorneys of record of the firm of:

Approved
Jacqueline M. Stone, Director
Technology Center 1700
JUN 29 2004

GREENBLUM & BERNSTEIN, P.L.C
1950 Roland Clarke Place
Reston, VA. 20191

The reason for withdrawal is that the inventor/client (Jung-O AN/Koco Silver Co., Ltd.) has not paid for previous prosecution of this matter. In the absence of instructions to the contrary, we assume that all future correspondence and communications from the United States Patent and Trademark Office should be directed to the inventor/client (Jung-O AN/Koco Silver Co., Ltd.) of record at the following address.

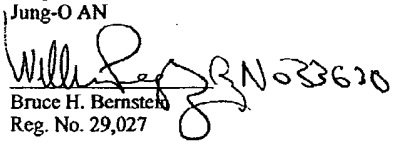
Koco Silver Co., Ltd.
105, Sinseong B/D, #283, 6-ga
Dangsan-dong, Yeongdeungpo-gu
Seoul, 150-046
Republic of Korea.

The undersigned notes that inventor/client is being concurrently advised by letter that a Withdrawal of Power of Attorney is being filed.

Accordingly, the undersigned respectfully requests that this Withdrawal as Attorneys of Record be granted. Should there be any questions, the United States Patent and Trademark Office is invited to contact the undersigned.

The signature of the undersigned is made on behalf of himself, as well as all registered practitioners listed in the Declaration and Power of Attorney of November 5, 2002, who are presently empowered to act for the Applicant in the present application.

Respectfully submitted,
Jung-O AN



Bruce H. Bernstein
Reg. No. 29,027

December 30, 2003
GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191

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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ROYLANCE, ABRAMS, BERDO & GOODMAN
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON, DC 20036

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JUL 0 7 2006
OFFICE OF PETITIONS

In re Application of :
Atsushi Morita et al :
Application No. 10/247,376 : ON PETITION
Filed: September 20, 2002 :
Attorney Docket No. 44346 :

This is a decision on the petition, filed July 6, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 26, 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 1754 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/27/2005

TO SPE OF : ART UNIT 2800 (2823)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,838,393

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.

Ernest C. White, LIE305-8339
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☑ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

The referenced applicant wished to include were from an IDS, filed 23AUG04 after the Notice of Allowance sent 3AUG04. In paper sent 6OCT04 the IDS was denied for failure to comply with 37CFR 1.97(d,e).

_____ **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

TANGENT LAW GROUP
1201 PENNSYLVANIA AVE, NW
SUITE 300
WASHINGTON DC 20004

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DEC 29 2005

OFFICE OF PETITIONS

In re Application of :
Jose Ordonez :
Application No. 10/247,407 : ON PETITION
Filed: September 19, 2002 :
Title: Multiple Seal Storage and Transport Container :

This is a decision on the petition under 37 CFR 1.17(i) to Accept Replacement Fee for Missing Check. This petition is properly treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment, filed August 26, 2005.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application was held abandoned December 17, 2005 for failure to timely reply to the Notice of Allowance and Fee(s) due mailed on September 16, 2004. The Notice of Allowance and Fee(s) due set a three (3) month non-extendable time period for reply of December 16, 2004.

Petitioner asserts that a reply to the Notice of Allowance and Fee(s) due was timely submitted on December 16, 2004. Petitioner states a Request for Continued Examination (RCE), an IDS and a check in the amount of $385.00 the RCE fee were submitted on December 16, 2004. The check in the amount of $385.00 has not been located. As evidence, petitioner has provided a stamped post card receipt which list the $385.00 check.

The complete response submitted December 16, 2004 has not been located in the Office. However, in view of the evidence submitted, the response is deemed timely.

Since the check cannot be located, pursuant to petitioner's request deposit account 50-3461 will be charged the $385.00 RCE fee. The $130.00 petition fee will be refunded.

The holding of abandonment is withdrawn.

The application file is being forwarded to the Technology Center 3700 for further processing.

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

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

Mr. Christopher John Rourk
Jackson Walker LLP
901 Main Street, Suite 6000
DALLAS, TX 75202

Mail Date: 04/21/2010

Applicant	: John Earl Shirey	: DECISION ON REQUEST FOR
Patent Number	: 7657482	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/247,412	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2237** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

Scheef & Stone
5956 Sherry Lane
Suite 1400
Dallas, TX 75225

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NOV 1 9 2003

OFFICE OF PETITIONS

In re Application of :
Anthony Reid :
Application No. 09/247,414 : ON PETITION
Filed: September 19, 2002 :
Attorney Docket No. NC17609 9019.100 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 14, 2003, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed October 21, 2002, which set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 22, 2002.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The patent file is being forwarded to the Office of Initial Patent Examination for further processing.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 4

PAUL S MADAN
MADAN MOSSMAN & SRIRAM PC
2603 AUGUSTA
SUITE 700
HOUSTON TX 77057-1130

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SEP 2 9 2003

OFFICE OF PETITIONS

In re Application of :
Meister, et al. :
Application No. 10/247,434 : DECISION DISMISSING PETITION
Filed: July 22, 2003 :
Title: APPARATUS AND METHODS FOR :
SAMPLING AND TESTING A FORMATION
FLUID

This is a decision on the petition filed July 22, 2003, to accord the above-identified application a filing date of September 19, 2002.

Application papers in the above-identified application were filed on September 19, 2002. However, on October 15, 2002, the Initial Patent Examination Division mailed applicant a "Notice of Incomplete Nonprovisional Application." Applicants were notified that the application papers had not been accorded a filing date because the application was deposited without a complete specification (the specification did not include at least one claim) or drawings. In addition, the Notice informed applicants that the oath or declaration was missing, as was an abstract of the application. This Notice set a two month extendable period for reply.

In response, on July 22, 2003[1], applicants filed the present petition to accord a filing date of September 19, 2002. Applicants asserted that a complete application, including at least one claim and drawings, was filed on September 19, 2002. As proof thereof, applicants have submitted a declaration from attorney William E. Schmidt and legal assistant Dean Brehm. Schmidt and Brehm attested that the instant application as filed included 38 pages of specification and 10 pages of drawings.

---

[1] The petition was made timely by including a certificate of mailing dated November 14, 2002. Applicant also included a postcard receipt, showing that the petition was originally filed on November 20, 2002.

The PTO file is the official record of papers originally filed in this application. A review of the official file reveals that pages 32 - 38 of the specification (description and claims), as well as drawings, were not filed on September 19, 2002, since those papers are not present in the file. An applicant alleging that a paper was filed in the PTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The declaration relied on contains the declarants' recall of routine events and are not more persuasive than the record of what was filed as shown by the official file.

Furthermore, the Office has a well established and well publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See MPEP 503. **Applicants have not submitted a proper return postcard showing that the application was filed on September 19, 2002.**

Because no claims or drawings were present on September 19, 2002, the date the application was deposited, the application can not be accorded a filing date of September 19, 2002.

Accordingly, the petition is **DISMISSED**.

The petition fee of $130 has been charged to Deposit Account No. 02-0429.

The application will be accorded a filing date based upon the date that the missing claims and drawings were received in the Office. While applicants provided a postcard receipt showing that the instant petition and accompanying papers (including 10 sheets of drawings) were originally filed on November 20, 2002, the postcard receipt does not properly itemize application papers containing at least one claim. Accordingly, the application papers will be accorded a filing date based upon that date of receipt of the specification containing at least one claim, or July 22, 2003.

Applicants may file a request for reconsideration providing they submit a proper postcard receipt showing that the application was filed on September 19, 2002, including at least one claim and drawings. Any request for reconsideration of this decision should be filed within **TWO (2) MONTHS** of the date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

Application No. 10/247,434

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

The application file will be forwarded to the Office of Initial Patent Examination for further processing with a **filing date of July 22, 2003**, using the application papers submitted on September 19, 2002, together with the papers submitted on petition filed July 22, 2003, including pages 32 - 38 of the specification and 10 pages of informal drawings.

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at 703-305-0272.

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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PAUL S MADAN
MADAN MOSSMAN & SRIRAM PC
2603 AUGUSTA
SUITE 700
HOUSTON TX 77057-1130

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MAR 22 2004

OFFICE OF PETITIONS

In re Application of :
Meister, et al. :
Application No. 10/247,434 : DECISION GRANTING
Filed: September 19, 2002 : RENEWED PETITION
Title: APPARATUS AND METHODS FOR SAMPLING AND TESTING A FORMATION FLUID :

This is a decision on the renewed petition, filed October 15, 2003, to accord the above-identified application a filing date of September 19, 2002.

Application papers in the above-identified application were filed on September 19, 2002. However, on October 15, 2002, the Initial Patent Examination Division mailed applicant a "Notice of Incomplete Nonprovisional Application." Applicants were notified that the application papers had not been accorded a filing date because the application was deposited without a complete specification (the specification did not include at least one claim) or drawings. In addition, the Notice informed applicants that the oath or declaration was missing, as was an abstract of the application. This Notice set a two month extendable period for reply.

In response, on July 22, 2003[1], applicants filed a petition to accord a filing date of September 19, 2002. Applicants asserted that a complete application, including at least one claim and drawings, was filed on September 19, 2002. As proof thereof, applicants submitted a declaration from attorney William E. Schmidt and legal assistant Dean Brehm. Schmidt and Brehm attested that the instant application as filed included 38 pages of specification and 10 pages of drawings.

---

[1] The petition was made timely by including a certificate of mailing dated November 14, 2002. Applicant also included a postcard receipt, showing that the petition was originally filed on November 20, 2002.

However, the petition was dismissed in a decision mailed on September 29, 2003. The petition was dismissed because applicants failed to submit a postcard receipt pursuant to MPEP 503. An applicant alleging that a paper was filed in the PTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The declaration relied on contained the declarants' recall of routine events and were not found to be more persuasive than the record of what was filed as shown by the official file (indicating that pages 32-38 of the specification (description and claims) as well as drawings were not present).

The September 29, 2003 decision set a two-month non-extendable period for reply in order for applicants to submit a proper postcard receipt showing that the application was filed on September 19, 2002, and included at least one claim and drawings.

With the instant renewed petition filed October 15, 2003, applicants have submitted a USPTO date stamped postcard receipt, itemizing, *inter alia*, "Specification 31 pages Claims (5 pages)" and "10 Sheets of Drawing(s) Informal". A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See MPEP 503.

In view thereof, the petition is **GRANTED**.

The application file will be forwarded to the Office of Initial Patent Examination for further processing with a **filing date of September 19, 2002**, using the application papers submitted on September 19, 2002, together with the papers submitted on petition filed July 22, 2003, including pages 32 - 38 of the specification and 10 pages of informal drawings.

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at 703-305-0272.

E Shirene Willis for

Charles Pearson
Director
Office of Petitions

United States Patent and Trademark Office

Commissioner for Pat nts
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 7

INCYTE GENOMICS, INC.
3160 PORTER DRIVE
PALO ALTO CA 94304

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MAR 2 8 2003

OFFICE OF PETITIONS

In re Application of
Michael G. Walker et al
Application No. 10/247,451
Filed: September 18, 2002
Attorney Docket No. PC-0015-1 CIP

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 February 13, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications.

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

[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).

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 September 18, 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)(3).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. 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 applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted as of the date of filing the petition.

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application(s). In order for the instant application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

As authorized, the $1,300 fee required by 37 CFR 1.78(a)(3) will be charged to petitioner's Deposit Account No. 09-0108.

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 1652 for processing the amendment filed February 13, 2003 and for processing and consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(3) for the benefit of priority to the prior-filed applications.

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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

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FEB 10 2003

OFFICE OF PETITIONS

Bacon & Thomas
652 Slaters Lane-4th Floor
Alexandria VA 22314

In re Application of
Horng et al.
Application No. 10/247,489
Filed: September 20, 2002
Attorney Docket No. HORN3112/EM

DECISION GRANTING PETITION

This is a decision on the petition under 1.181, filed December 3, 2002, which is being treated as a petition under 37 CFR 1.53(e), requesting that the above-identified application be accorded a filing date of September 20, 2002, with page 7 of the specification as part of the original disclosure.

On September 20, 2002, applicants filed the above-identified application. On October 17, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of September 20, 2002, and advising applicants that page 7 of the specification appeared to have been omitted.

In response, on December 3, 2002, applicants filed the present petition, the petition fee, and a copy of applicants' postcard receipt acknowledging receipt of 10 pages of specification on September 20, 2002. Additionally, applicants submitted a copy of page 7 of the specification with the present petition.

In the present petition, applicants request that the application, including page 7 of the specification, be accorded a filing date of September 20, 2002, and the petition fee be refunded.

Upon review of the record, page 7 of the specification, deposited on September 20, 2002, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on September 20, 2002, included page 7, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including page 7 of the specification, was complete on filing and will be granted a filing date of September 20, 2002.

Accordingly, the petition is granted.

The Notice of October 17, 2002, was sent in error and is hereby vacated. Accordingly, the $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 02-0200.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of September 20, 2002, using pages 1-6 and 8-10 submitted on that date, and page 7, submitted on December 3, 2002, and the mailing of a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: _____ 2 Serial/Patent # 10/247,489

	3 Please r fund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	3	12/3/02	$ 130
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $ 130

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 0 2 -- 0 2 0 0

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Notice is vacated.

11 REFUND REQUESTED BY: C. Donnell

TYPED/PRINTED NAME: C. Donnell TITLE: Pet. Atty

SIGNATURE: C. P. Donnell PHONE: 306-5589

OFFICE: 4700

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] DATE: 2/5/03

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

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OFFICE OF PETITIONS

In re Application of :
Toru Kambayashi, et al. :
Application No.: 10/247,510 :
Filed: September 20, 2002 :
Attorney Docket No.: 016907-1417 :

ON PETITION

This is a decision on the petition, filed May 5, 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 April 22, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2623 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

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 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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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

Mail Date: 04/20/2010

Applicant	: Atsushi Sano	: DECISION ON REQUEST FOR
Patent Number	: 7651815	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/247,511	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/20/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **708** 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 800
WASHINGTON, DC 20037

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SEP 21 2005

OFFICE OF PETITIONS

In re Application of :
Soichiro Kato et al :
Application No. 10/247,587 : ON PETITION
Filed: September 20, 2002 :
Attorney Docket No. Q72015 :

This is a decision on the petition under 37 CFR 1.313(a) and (c)(2), filed September 16, 2005, which is being treated under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 31, 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 3683 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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5291 COLONY DRIVE NORTH
SAGINAW, MI 48603

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APR 14 2005

OFFICE OF PETITIONS

In re Application of :
Earl R. Smith, et al. :
Application No. 10/247,597 : ON PETITION
Filed: September 19, 2002 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed January 11, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed September 9, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 10, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition and publication fees; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

PTO/SB/66 (03-09)
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6898925	2005-05-31	10247597	2002-09-19	5182.3004.001

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Robert L Farris/	Date (YYYY-MM-DD)	2010-03-31
Name	Robert L. Farris	Registration Number	25112

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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In re Patent No. 6898925
Issue Date: May 31,2005
Application No. 10247597
Filed: September 19,2002
Attorney Docket No. 5182 E Smith

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 31,2010 ,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 March 31,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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DILLON & YUDELL LLP
8911 N. CAPITAL OF TEXAS HWY.,
SUITE 2110
AUSTIN, TX 78759

Mail Date: 04/21/2010

Applicant	: Shigefumi Odaohhara	: DECISION ON REQUEST FOR
Patent Number	: 7663374	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/247,600	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Dorsey & Whitney LLP
555 California Street, Suite 1000
San Francisco, CA 94104

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APR 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Steinberg et al. :
Application No. 10/247,605 :
Filed: September 18, 2002 :
Attorney Docket No. A-69885-1/AJT/KRG :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed March 20, 2006, to revive the above-identified application.

The application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely and proper manner to the final Office action mailed August 26, 2005, which set a shortened statutory period for reply of three (3) months. Petitioner obtained an extension of time for response within the second month. Accordingly, the application became abandoned on January 27, 2006.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of a Request for Continued Examination and a submission, 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 2676

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of :
Yamashita et al. :
Application No. 10/247,639 : DECISION ON PETITION
Filed: September 20, 2002 :
Attorney Docket No. 228562US0 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application, (2) the petition fee, and (3) a proper statement of unintentional delay.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing Application No. 11/734,895.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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DENVER CO 80201

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JAN 17 2006

OFFICE OF PETITIONS

In re Application of :
Jon Sullivan et al :
Application No. 10/247,648 :
Filed: September 19, 2002 :
Attorney Docket No. 38105.830017.000 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 23, 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** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed July 17, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). No amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed. Accordingly, the above-identified application became abandoned on October 18, 2004.

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) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Advisory Action

cc:
BRIAN KINNEAR
555 17TH STREET, SUITE 3200
DENVER, CO 80202

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P.O. BO 8749
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JUN 22 2006

OFFICE OF PETITIONS

In re Application of
Jon Sullivan et al
Application No. 10/247,648
Filed: September 19, 2002
Attorney Docket No.
38105.830017.000

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.137(b)

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 15, 2006, and supplemented on June 7, 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; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection of July 12, 2004, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2618.

Karen Creasy
Petitions Examiner
Office of Petitions

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APR 21 2004

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Woodward, Emhardt, Naughton, Moriarty and McNett
Bank One Center/Tower
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

Paper No. //

In re Application of	:	DECISION ON PETITION
Brent G. Duchon	:	TO WITHDRAW
Serial No. : 10/247,650	:	HOLDING OF
Filed : September 19, 2002	:	ABANDONMENT
For : Body Fluid Sampling Device	:	

This is a decision on petitioner's request filed December 30, 2003 to review the holding of abandonment mailed December 10, 2003 for failure to respond to the Office action mailed July 30, 2003. The basis for the request is that applicant did not receive the communication mailed July 30, 2003. There is no fee required for this petition.

In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. See 1156 OG 53.

The request filed December 30, 2003 includes all the above elements. The request is therefore GRANTED. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for the remailing of the Office action of July 30, 2003, which action will set a new shortened statutory period for response.

In view of the granting of the petition to withdraw the holding of abandonment, the request that the instant petition be considered, in the alternative, under 37 CFR 1.137(b) is hereby dismissed as being moot.

Summary: Holding of Abandonment Withdrawn.
Petition to Revive under 37 CFR 1.137(b) dismissed.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/4/18/04

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11TH FLOOR
WASHINGTON, DC 20005-3500

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Shunpei Yamazaki, et al. :
Application No. 10/247,670 :
Filed: September 20, 2002 :
Attorney Docket No. 12732-120001 :

This is a decision on the petition, filed June 23, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 21, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 2818 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Federico Canini et al	:	
Application No. 10/247,681	:	DECISION GRANTING PETITION
Filed: September 20, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2746-011A	:	

This is a decision on the petition, filed August 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 March 5, 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 2878 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : May 13, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Federico Canini et al
Application No. :10/247,681
Filed :September 20, 2002

The above-identified application has been assigned Patent No. 6,897,427 and an issue date of May 24, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 24, 2005:

"All reference to Patent No. 6,897,427 to Federico Canini et al of Italy for DEVICE AND METHOD FOR THE ACQUISITION AND AUTOMATIC PROCESSING OF DATA OBTAINED FROM OPTICAL CODES appearing in the Official Gazette of May 24, 2005 should be deleted since no patent was granted."

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03, (FAX-273-5468
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038)
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LOWE HAUPTMAN GILMAN & BERNER
SUITE 300
1700 DIAGONAL ROAD
ALEXANDRIA VA 22314

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MAY 1 3 2005

OFFICE OF PETITIONS

In re Application of :
Federico Canini et al :
Application No. 10/247,681 : ON PETITION
Filed: September 20, 2002 :
Attorney Docket No. 4666-011A :

This is a decision on the petition, filed May 12, 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 3, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The instant petition under 37 CFR 1.313(c)(2), the RCE, the IDS and an amendment, filed on May 12, 2005, are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Joseph Powers appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he act. However, if Mr. Powers desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Powers, the petitioner herein. Until otherwise instructed, all future

[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).

correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center Art Unit 2878 for processing of the request for continued examination under 37 CFR 1.114 filed May 12, 2005.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
DUANE MORRIS LLP
ONE LIBERTY PLACE
PHILADELPHIA, PENNSYLVANIA 19103-7396

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DUANE MORRIS, LLP
IP DEPARTMENT
Joseph Powers
30 South 17th Street
Philadelphia, PA 19103-4196

In re Application of:	:	
FEDERICO CANINI	:	NOTICE OF WITHDRAWAL
Application No. 10/247,681	:	FROM ISSUE
Filed: September 20, 2002	:	UNDER 37 CFR 1.313
Attorney Docket No. D8202-00013	:	
For: DEVICE AND METHOD FOR THE ACQUISITION AND AUTOMATIC PROCESSING OF DATA OBTAINED FROM OPTICAL CODES		

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 above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed May 7, 2006, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

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 should be directed to Georgia Y. Epps at (571) 272-2328.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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DINSMORE & SHOHL, LLP
1900 CHEMED CENTER
255 EAST FIFTH STREET
CINCINNATI, OH 45202

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JAN 30 2007

OFFICE OF PETITIONS

In re Application of :
Bean et al. :
Application No. 10/247688 :
Filing or 371(c) Date: 09/19/2002 :
Attorney Docket Number: :
23689-214 : ON PETITION

This is a decision on the "Petititon to Withdraw Holding of Abandoment Under 37 C.F.R. § 1.181(b)", filed June 8, 2006, and supplemented and re-filed November 6, 2006. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed August 16, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on November 17, 2005. A Notice of Abandonment was mailed August 16, 2006.

Applicant's Assertion

Applicant files the instant petition and asserts that a timely reply to the Office action, including an amendment and an extension of time, was filed on December 8, 2005. In support of this assertion, applicant files a copy of the reply, along with a copy of a return-receipt postcard which acknowledges receipt by this Office of an amendment and extension of time on December 6, 2005.

A review of Office records also reveals that the Office received an amendment, petition for a one (1) month extension of time the fee on December 8, 2005[1].

[1] The amendment, petition, and fee incorrectly identified provisional application 60/323,786; however, the correct identification of the papers was made and the papers were entered into the above-identified application file and accorded a filing date of December 8, 2005.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

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.

The application will be referred to Technology Center Art Unit 2113 for continued examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

CC: Intellectual Property Section
Law Department
NCR Corporation
1700 South Patterson Blvd.
Dayton, OH 45479-0001