10 FEB 2003

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Kathleen D. Rigaut
Dann, Dorfman, Herrell & Skillman
Suite 720
1601 Market Street
Philadelphia, PA

In re Application of MELTON
U.S. Application No.: 10/258,428
Int. Application No.: PCT/GB00/04959
Int. Filing Date: 21 December 2000
Priority Date: 22 January 2000
Attorney Docket No.: 0046-P02971US0
For: METHODS FOR AMPLIFYING GENETIC MATERIAL AND USES THEREOF

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 24 October 2002.

BACKGROUND

On 21 December 2000, applicant filed international application PCT/GB00/04959, which claimed priority of an earlier United Kingdom application filed 22 January 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 26 July 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 21 August 2001, prior to the expiration of 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 22 July 2002.

International application PCT/GB00/04959 became abandoned as to the United States at midnight on 22 July 2002 for failure to pay the basic national fee.

On 24 October 2002, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

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

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be submitted.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS
ON PETITION

In re Patent No. 6,939,892 :
Issue Date: September 6, 2005 :
Application No. 10/258,435 :
Filed: January 27, 2003 :
Attorney Docket No. P07774USOO/BAS :

This is a decision on the petition filed September 29, 2005, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is granted.

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

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

Karen Creasy

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

[1]See Official Gazette of June 22, 2004

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RADER FISHMAN & GRAUER
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036

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OFFICE OF PETITIONS

In re Application of	:	
Shigeru Masuoka et al	:	
Application No. 10/258,448	:	DECISION GRANTING PETITION
Filed: April 9, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. NFA-0200	:	

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

The petition is **GRANTED**.

The 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 December 16, 2005, is accepted as having been unintentionally delayed.

Additionally, it is noted that the examiner acted on the RCE submitted on September 15, 2006, prematurely before the granting of the above petition.

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

This matter is being referred to Technology Center AU 1714.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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#4

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02 JUN 2003

Pharmacia & Upjohn Company
Global Intellectual property
301 Henrietta Street
Kalamazoo, Michigan 49001

In re Application of	:	DECISION ON
HEINRIKSON, Robert, L. et al	:	
Application No.: 10/258,461	:	
PCT No.: PCT/US01/10804	:	PETITION UNDER
Int. Filing Date: 17 April 2001	:	
Priority Date: 20 April 2000	:	37 CFR 1.137(b)
Attorney's Docket No.: 6309.PCP	:	
For: Heparanase II, A Novel Human Heparanase Paralog	:	

This decision is in response to applicants' "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 24 October 2002.

BACKGROUND

On 17 April 2001, this international application was filed, claiming an earliest priority date of 20 April 2000.

A Demand electing the United States was filed in this international application on 25 October 2001. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 20 October 2002. The application became abandoned for failure to commence the national stage timely under 35 U.S.C. 371.

On 24 October 2002, applicants filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by the petition fee, basic national fee, and an executed declaration.

06/05/2003 MKAYPAGH 00000002 210718 10258461
01 FC:1460 130.00 CH

DISCUSSION

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

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

The required fee of $130.00 (the surcharge under 1.492(e) for late filing of the declaration) has been charged to Deposit Account No.: 21-0718 as authorized in the petition submitted on 24 October 2002.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371 date of this application is **24 October 2002.**

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

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ONE METROPOLITAN SQUARE
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ST LOUIS MO 63102

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OFFICE OF PETITIONS

Applicant: Brown et al.
Appl. No.: 10/258,507
Filing Date: April 16, 2003
Title: REGIOSELECTIVE SYNTHESIS OF 3, 4-DI (CARBOCYCLYL OR HETEROCYCLYL) THIOPHENES
Attorney Docket No.: 4175.2 (3427/US)
Pub. No.: US 2003/0232996 A1
Pub. Date: December 18, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on January 8, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains an error in the title, wherein "Regioselective Synthesis of 3, 4-Di (Carbocyclyl or Heterocyclyl) Thiophenes" is misprinted as "Regioselective Synthesis of 3,4-Di".

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

The instant request identifies a typographical error in the title of the invention, wherein "Regioselective Synthesis of 3, 4-Di (Carbocyclyl or Heterocyclyl) Thiophenes" is misprinted as "Regioselective Synthesis of 3,4-Di", which is not a material mistake because the technical disclosure and the claims are understandable, as the phrase is correctly spelled throughout the specification. The typographical error identified by applicant is an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b). The error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

[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 title of the invention has been corrected in the Office electronic records.

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

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

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

The application will be examined in due course.

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

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

Enclosures: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/05/09

TO SPE OF : ART UNIT 2173

SUBJECT : Request for Certificate of Correction for Appl. No.: 10258510 Patent No.: 7404147 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

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: _____

/William L. Bashore/ SPE AU2175

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

08 APR 2004

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OBLON SPIVAK McCLELLAND MAIER & NEUSTADT
1940 Duke Street
Alexandria, VA 22314

In re Application of	
BOISSONNAT, Phillipe, et al.	
U.S. Application No.: 10/258,524	DECISION ON PETITION TO
PCT No.: PCT/FR01/01259	WITHDRAW HOLDING OF
International Filing Date: 25 April 2001	ABANDONMENT
Priority Date: 25 April 2000	(37 CFR 1.181)
Attorney's Docket No.: 229096US3PCT	
For: PROCESS AND APPARATUS FOR MANUFACTURING A COMPOSITE PROFILE FORMED FROM A THERMOPLASTIC ORGANIC MATERIAL	

This decision is issued in response to the "Petition Under 37 CFR 1.181 To Withdraw Holding Of Abandonment" filed on 07 October 2003. No petition fee is required.

BACKGROUND

On 25 April 2001, applicants filed international application PCT/FR01/01259 which claimed a priority date of 25 April 2000 and which designated the United States. On 01 November 2001, a copy of the international application was transmitted to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

A Demand was filed with the International Preliminary Examining Authority electing the United States prior to the expiration of 19 months from the priority date. As a result, the deadline for payment of the basic national fee was 30 months from the priority date, i.e., 25 October 2002.

On 25 October 2002, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, among other materials, payment of the basic national fee and a translation of the international application into English.

On 03 February 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 was required. The Notification also informed applicants that the failure to submit these materials within one month of the date of the Notification would result in abandonment of the application.

On 26 September 2003, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a response to the Notification Of Missing Requirements

On 07 October 2003, applicants filed the petition considered herein. The petition asserts that applicants never received the Notification Of Missing Requirements mailed 03 February 2003, and that the holding of abandonment should therefore be withdrawn..

DISCUSSION

Section 711.03(c)II of the MPEP sets forth the requirements for a grantable petition to confirm the failure to receive an Office communication:

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Here, the petition contains the required statements from the practitioner that the Notification Of Missing Requirements was not received and that "a search of the file jacket and docket records in our office indicates that the Office communication was not received." As for the docket records requirement, applicants have attached a copy of what appears to be a printout of the docket information for this particular docket number. However, the record with respect to this particular file is not sufficient to satisfy the docket records requirement. Rather, applicants must provide a copy of their office docket for the date on which a response to the Notification Of Missing Requirements would have been required had the Notification been received (i.e., 03 April 2003).

Applicants have failed to satisfy all the requirements for a grantable petition. Accordingly, at the present time it cannot be concluded that applicants failed to receive the Notification Of Missing Requirements mailed 02 February 2003.

It is noted that the declaration filed by applicants with the present petition is acceptable under 37 CFR 1.497.

CONCLUSION

Applicants' petition to withdraw the holding of abandonment is **DISMISSED** without prejudice.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision, and must include the additional docket materials discussed above that are necessary for a grantable petition to demonstrate the failure to receive an Office communication.

Please direct further correspondence with respect to this matter to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

#8

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20 DEC 2005

OBLON SPIVAK McCLELLAND MAIER & NEUSTADT
1940 Duke Street
Alexandria, VA 22314

In re Application of	:	
BOISSONNAT, Phillipe, et al.	:	
U.S. Application No.: 10/258,524	:	DECISION ON PETITION TO
PCT No.: PCT/FR01/01259	:	WITHDRAW HOLDING OF
International Filing Date: 25 April 2001	:	ABANDONMENT
Priority Date: 25 April 2000	:	(37 CFR 1.181)
Attorney's Docket No.: 229096US3PCT	:	
For: PROCESS AND APPARATUS FOR	:	
MANUFACTURING A COMPOSITE PROFILE	:	
FORMED FROM A THERMOPLASTIC	:	
ORGANIC MATERIAL	:	

In a decision mailed by this Office on 08 April 2004, applicants' petition to withdraw the holding of abandonment was dismissed without prejudice for failure to satisfy all the requirements of a grantable petition. Specifically, applicants had not provided the docket records required for a grantable petition to confirm that applicants did not receive the Notification Of Missing Requirements mailed herein on 03 February 2003.

On 13 December 2005, applicants filed a "Request For Reconsideration" (treated herein as a renewed petition), accompanied by a copy of a return postcard itemizing the "Request For Reconsideration" and the docket record attached thereto. The return postcard bears a USPTO receipt stamp dated 01 June 2004. Based on applicants' statements and the stamped return postcard, it is concluded that the "Request For Consideration" and the accompanying docket records were filed in the USPTO on 01 June 2004 as a timely response to the decision mailed 08 April 2004.

The "Request For Reconsideration" was accompanied by a copy of counsel's docket records for 03 April 2003, the date on which a response to the Notification Of Missing Requirements would have been required had the Notification been received.

Applicants have now satisfied all the requirements for a grantable petition. Accordingly, applicants' petition to confirm that the Notification Of Missing Requirements mailed 03 February 2003 was not received is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 16 September 2003, based as it was on applicants' failure to respond to the Notification Of Missing Requirements, is therefore appropriately **VACATED**.

It is noted that, on 07 October 2003, applicants submitted the materials required by the non-received Notification Of Missing Requirements (i.e., an executed declaration in compliance with 37 CFR 1.497).

The application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 07 October 2003.

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

OIPE JC25
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PATENT & TRADEMARK OFFICE

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

Application Number	10/258,551
Filing Date	October 25, 2002
First Named Inventor	Ryan, P.
Art Unit	1743
Examiner Name	Unassigned
Attorney Docket Number	2491-18

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

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

- [X] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [ ] 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.

Approved
Jacqueline M. Stone, Director
Technology Center 1700
5/16/04

The reasons for this request are:

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

[X] Firm or Individual Name	Wesley W. Whitmeyer, Jr.				
Address	St. Onge Steward Johnston & Reens LLC				
Address	986 Bedford Street				
City	Stamford	State	CT	Zip	06905-5619
Country	United States of America				
Telephone	(203) 324-6155			Fax	(203) 327-1096

Name	B. J. Sadoff		
Signature		Registration No.	36,663
Date	December 1, 2004	Telephone No.	(703) 816-4000

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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In re Application of
Genoveffa Franchini, et al
Serial No. 10/258,570
Filed: 10/25/2002
For: IMMUNOGENICITY USING A COMBINATION OF DNA AND VACCINIA VIRUS VECTOR VACCINES

NOTICE OF WITHDRAWAL FROM ISSUE
UNDER 37 CFR 1.313(b)

The above-identified application is withdrawn from issue after payment of the Issue Fee to reopen prosecution. See 37 CFR 1.313(b)(3).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and issue fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to James Housel (571) 272-0902.

George C. Elliott

George Elliott, Director
Technology Center 1600

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

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REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

Application Number	10/440,039
Filing Date	May 16, 2003
First Named Inventor	An, Songzhu
Art Unit	1646
Examiner Name	Gyan Chandra
Attorney Docket Number	018781-009011US

To: Commissioner for Patents
Washington, DC 20231

I hereby apply to withdraw as attorney or agent for the above identified patent application.

The reasons for this request are: Per request of the client

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☒ Change the correspondence address and direct all future correspondence to:

CORRESPONDENCE ADDRESS

☐ Customer Number

OR

Place Customer Number Bar Code Label here

☒ Firm or Individual Name	Banner & Witcoff				
Address	1001 G Street, NW				
Address	Eleventh Floor				
City	Washington, D.C.	State		ZIP	20001
Country	U.S.A.				
Telephone	(202) 824-3000	Fax	(202) 824-3001		

☒ This request is made on behalf of myself and
- ☐ all the attorneys/agents of record.
- ☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☒ the attorneys/agents associated with Customer Number 20350

This request is enclosed in triplicate (including any attachments).

Name	William B. Kezer (Reg. No.: 37,369)
Signature	Wm B-Kezer
Date	6-17-05

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.

Approved 6/30/05 MS

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, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

60514381 v1

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Atty Docket No. 018781-009011US

PTO FAX NO.: 703-872-9306

ATTENTION: Examiner Gyan Chandra Group Art Unit 1646

OFFICIAL COMMUNICATION

FOR THE PERSONAL ATTENTION OF

EXAMINER Gyan Chandra

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that the following documents in re Application of AN et al., Application No. 10/440,039, filed May 16, 2003 for RECEPTOR LIGANDS AND METHODS OF MODULATING RECEPTORS are being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Documents Attached

1. Request for Withdrawal as Attorney or Agent (1 page)

Number of pages being transmitted, including this page: 2

Dated: June 20, 2005 _____
Katherine Farkas

PLEASE CONFIRM RECEIPT OF THIS PAPER BY RETURN FACSIMILE AT (415) 576-0300

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834
Telephone: 415-576-0200
Fax: 415-576-0300
3808

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Denver CO 80238

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OFFICE OF PETITIONS

In re Patent No. 7,094,408 :
Issue Date: August 22, 2006 :
Application No. 10/258,570 : ON PETITION
Filed: October 25, 2002 :
Attorney Docket No. **1662.019US1** :

This is a decision on the petition filed February 19, 2010, 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 JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Petitioner has authorized, the $100 fee for the petition under 37 CFR 3.81(b) and $100 for the Request for Certificate of Correction. However, the petition fee under 37 CFR 3.81 is $130 and there is a $30 balance that is due. Therefore, the remaining balance of $30 will be charged to petitioner's deposit account as authorized.

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.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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OFFICE OF PETITIONS

Jeffery Pascal Shore
Langelinie Alle 25A
Copenhagen DK 02-100 DK DENMARK

In re Application of	:	
Jeffery Pascal Shore	:	
Application No. 10/258,576	:	DECISION ON PETITION
Filed: October 31, 2002	:	UNDER 37 C.F.R. §1.137(b)
Title: FITTING FOR THE USE AS A MEANS FOR THE GRIPPING OF ONE OR MORE OBJECTS	:	

This is a decision on the petition filed on February 21, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed August 18, 2003, which set a shortened statutory period for reply of three months. A letter restarting the period for response was mailed on January 15, 2004. No response was received, and no extensions of time under the provisions of

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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.

37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on April 16, 2004. A notice of abandonment was mailed on August 10, 2004.

With the present petition, Petitioner has submitted the petition fee and a response to the non-final Office action. Petitioner has further provided the proper statement of unintentional delay. A terminal disclaimer is not required.

As such, the petition is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the response which was received with the present petition can be processed.

The change of correspondence address has been entered and made of record.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

2 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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**OBLON, SPIVAK, MCCLELLAND,
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314**

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SEP 20 2007

OFFICE OF PETITIONS

In re Application of
Michiko Omori et al.
Application No. 10/258,587
Filed: February 27, 2003
Attorney Docket No. 229592US3XPCT

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 1, 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 C. Irwin McClelland on behalf of all attorneys of record who are associated with customer No. 22850. All attorneys/agents associated with the Customer Number 22850 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 indicated below.

There are no outstanding Office actions at this time.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Mr. Michiko Omori
Mr. Sataro Shimazaki
c/o Nakai International Patent Office
Nikkan Kogyo Shimbun, Ltd, Osaka Branch
Office Bldg. 7F
2-16 Kitahamhigashi Chuo-ku
Osaka-shi, Osaka 540-0031
JAPAN

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/258,587	02/27/2003	Michiko Omori	229592US3XPCT

CONFIRMATION NO. 4122

22850
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

OC000000025850551

Date Mailed: 09/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/01/2007.

- 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.

K. Gabinet

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

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25 AUG 2009

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PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH PA 15219

In re Application of KAESEMEYER	:
Application No.: 10/258,633	: DECISION ON PETITION
Filing Date: 24 October 2002	:
Attorney Docket No.: 126625.00710	: UNDER 37 CFR 1.78(a)(3)
For: CONTROLLED RELEASE ARGININE FORMULATIONS	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 06 May 2009 to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the nonprovisional application identified in the concurrently filed amendment to the specification. The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a U.S. national stage of international application PCT/US2001/20887 (WO 02/00212) filed June 28, 2001, which is a continuation in part of U.S. Application number 09/605,599, filed June 28, 2000." The reference added to the specification 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 Manual of Patent Examining Procedure, (8th ed., Revision 7 (July 2008)), Section 201.11, Reference to Prior Application(s). The amendment filed 06 May 2009 is improper because there is no specific reference indicating the relationship of

international application PCT/US 2007/20887 to application 09/605,599. Even though the application data sheet filed with the petition states a proper relationship, the petition cannot be granted due to the improper amendment to the specification.

The reference to add the prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment[1] or supplemental application data sheet (37 CFR 1.76) stating the relationship of the prior-filed application to PCT/US2001/020887 is required.

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

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

By hand: Customer Window located at:
Mail Stop PCT
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-0459
ATTN: Office of PCT Legal Administration

Any questions concerning this matter may be directed to Cynthia Kratz at (571) 272-3286.

Byran Lin

Byran Lin
PCT Legal Examiner
Office of PCT Legal Administration

[1] *Note* 37 CFR 1.121

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PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH PA 15219

In re Application of KAESEMEYER	:
Application No.: 10/258,633	: DECISION ON PETITION
Filing Date: 24 October 2002	:
Attorney Docket No.: 126625.00710	: UNDER 37 CFR 1.78(a)(3)
For: CONTROLLED RELEASE ARGININE FORMULATIONS	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 18 September 2009 to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the nonprovisional application identified in the concurrently filed amendment to the specification. The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1).

MPEP 201.11, Section III. C., states in relevant part,

Sometimes a pending application is one of a series of applications wherein the pending application is not copending with the first filed application but is copending with an intermediate application entitled to the benefit of the filing date of the first application....Appropriate references must be made in each intermediate application in the chain of prior applications. If an applicant desires, for example, the following benefit claim: "this application is a continuation of Application No. C, file —, which is a continuation of Application No. B, filed —, which claims the benefit of provisional Application A, filed —," then Application No. C must have a reference to Application No. B and provisional application No. A, and Application No. B must have a reference to provisional Application No. A (Emphasis added.)

In the present case, the first paragraph of the specification has been amended to state that U.S. Application Number 09/605,599 is a continuation in part of U.S. Application Number

09/293,392. However, a review of Office records indicates that U.S. Application Number 09/605,599 does not contain an appropriate reference to U.S. Application Number 09/293,392. Accordingly, the amendment to the specification is not acceptable at the present time. The application data sheet filed with the renewed petition is defective for the same reason. Applicant is further advised that any supplemental application data sheet must be titled as such. See 37 CFR 1.76(c)(2).

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, U.S. application 09/605,599 must be amended to include the necessary reference as discussed above.

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

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

By hand: Customer Window located at:
Mail Stop PCT
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-0459
ATTN: Office of PCT Legal Administration

Any questions concerning this matter may be directed to Cynthia Kratz at (571) 272-3286.

Byran Lin
PCT Legal Examiner
Office of PCT Legal Administration

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Chicago IL 60604-3606

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OFFICE OF PETITIONS

In re Application of :
WALLER :
Application No. 10/258,637 : DECISION ON PETITION
Filed: October 26, 2005 : TO WITHDRAW
Attorney Docket No. 14266 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed July 16, 2006.

The request is **APPROVED**.

A review of the file record indicates that Catherine L. Gemrich: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Catherine L. Gemrich has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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

There is no outstanding Office action that requires a reply from the applicant.

The correspondence address remains unchanged.

Telephone inquires concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

25 JUN 2003

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Bruce S. Londa
Norris, McLaughlin & Marcus, P.A.
220 East 42nd Street, 30th Floor
New York, NY 10017

In re Application of :
IVICS et al. :
Application No.: 09/258,654 : DECISION ON REQUEST
PCT No.: PCT/DE01/01595 : UNDER 37 CFR 1.497(d)
Int. Filing Date: 27 April 2001 :
Priority Date: 27 April 2000 :
Attorney Docket No.: 101195-77 :
For: SLEEPING BEAUTY, A WIDE HOST-RANGE TRANSPOSON VECTOR FOR GENETIC TRANSMISSION IN VERTEBRATES

This decision is in response to "Request under 37 CFR 1.48(a) to Correct Inventorship" which is being treated as a Request under 37 CFR 1.497(d) filed 25 February 2003 and Response to Notification of Missing Requirements filed 23 April 2003. The $130 petition fee under 37 CFR 1.17(i) will be charged to Deposit Account no. 14-1263.

BACKGROUND

On 27 April 2001, applicants filed the above-captioned international application, which claimed a priority date of 27 April 2000 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 01 November 2001. The international application named Zoltan Ivics and Zsuzsanna Izsvak. A Demand for international preliminary examination was filed prior to 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee expired at midnight on 27 October 2002.

On 25 October 2002, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a basic national fee of $890; a translation of the international application; and a preliminary amendment.

On 25 February 2003, applicants filed "Request under 37 CFR 1.48(a) to Correct Inventorship" which included: a declaration executed by Zoltan Ivics, Zsuzsanna Izsvak and Hatem Zayed; a Statement of Added Inventor of Lack of Deceptive Intent; a Written Consent of Assignee to Change in Inventorship; and an assignment.

On 03 April 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a) and (b).

On 23 April 2003, applicants filed "Response to Notification of Missing Requirements."

DISCUSSION

In the instant case, the international application named Zoltan Ivics and Zsuzsanna Izsvak as applicants/inventors. Applicants request to add Hatem Zayed as an applicant/inventor. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a submission under 37 CFR 1.497(d) is required.

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires: (1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part; (2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.497(a); (3) the fee set forth in 37 CFR 1.17(i); and (4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

Items (1), (2), (3), and (4) have been satisfied.

B. Defective Translation

A review of this application file reveals that the purported English translation of the international application filed on 25 October 2002 is defective. Specifically, the translation of the international application is defective because the number of claims in the International Application and the number of claims in the translation are not the same. It would appear that applicants have not filed a translation of the international application as filed, but instead a translation of the international application with the Article 34 amendments incorporated therein.

07/02/2003 HKAYPAGH 00000003 141263 10258654
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CONCLUSION

The request under 37 CFR 1.497(d) is **GRANTED**.

In view of the declaration filed 25 February 2003, the Notification of Missing Requirements (Form PCT/DO/EO/905) dated 03 April 2003 is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision, that is, for issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905), to inform applicants that the English translation of the international application is defective.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

0 8 JUL 2003

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Bruce S. Londa
Norris, McLaughlin & Marcus, P.A.
220 East 42nd Street, 30th Floor
New York, NY 10017

#9

In re Application of :
IVICS et al. :
Application No.: 10/258,654 : DECISION ON REQUEST
PCT No.: PCT/DE01/01595 : UNDER 37 CFR 1.497(d)
Int. Filing Date: 27 April 2001 :
Priority Date: 27 April 2000 :
Attorney Docket No.: 101195-77 :
For: SLEEPING BEAUTY, A WIDE HOST-RANGE TRANSPOSON VECTOR FOR GENETIC TRANSMISSION IN VERTEBRATES

This decision is in response to "Request under 37 CFR 1.48(a) to Correct Inventorship" which is being treated as a Request under 37 CFR 1.497(d) filed 25 February 2003 and Response to Notification of Missing Requirements filed 23 April 2003. The $130 petition fee under 37 CFR 1.17(i) will be charged to Deposit Account no. 14-1263.

BACKGROUND

On 27 April 2001, applicants filed the above-captioned international application, which claimed a priority date of 27 April 2000 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 01 November 2001. The international application named Zoltan Ivics and Zsuzsanna Izsvak. A Demand for international preliminary examination was filed prior to 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee expired at midnight on 27 October 2002.

On 25 October 2002, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a basic national fee of $890; a translation of the international application; and a preliminary amendment.

On 25 February 2003, applicants filed "Request under 37 CFR 1.48(a) to Correct Inventorship" which included: a declaration executed by Zoltan Ivics, Zsuzsanna Izsvak and Hatem Zayed; a Statement of Added Inventor of Lack of Deceptive Intent; a Written Consent of Assignee to Change in Inventorship; and an assignment.

On 03 April 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a) and (b).

On 23 April 2003, applicants filed "Response to Notification of Missing Requirements."

DISCUSSION

In the instant case, the international application named Zoltan Ivics and Zsuzsanna Izsvak as applicants/inventors. Applicants request to add Hatem Zayed as an applicant/inventor. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a submission under 37 CFR 1.497(d) is required.

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires: (1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part; (2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.497(a); (3) the fee set forth in 37 CFR 1.17(i); and (4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

Items (1), (2), (3), and (4) have been satisfied.

B. Defective Translation

A review of this application file reveals that the purported English translation of the international application filed on 25 October 2002 is defective. Specifically, the translation of the international application is defective because the number of claims in the International Application and the number of claims in the translation are not the same. It would appear that applicants have not filed a translation of the international application as filed, but instead a translation of the international application with the Article 34 amendments incorporated therein.

CONCLUSION

The request under 37 CFR 1.497(d) is **GRANTED**.

In view of the declaration filed 25 February 2003, the Notification of Missing Requirements (Form PCT/DO/EO/905) dated 03 April 2003 is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision, that is, for issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905), to inform applicants that the English translation of the international application is defective.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

#10

19 JUL 2004

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Bruce S. Londa
Norris, McLaughlin & Marcus, P.A.
220 East 42nd Street, 30th Floor
New York, NY 10017

In re Application of :
IVICS et al. :
Application No.: 10/258,654 : DECISION ON PETITION
PCT No.: PCT/DE01/01595 :
Int. Filing Date: 27 April 2001 :
Priority Date: 27 April 2000 :
Attorney Docket No.: 101195-77 :
For: SLEEPING BEAUTY, A WIDE HOST-RANGE TRANSPOSON VECTOR FOR GENETIC TRANSMISSION IN VERTEBRATES

This decision is in response to applicants' "Response to Notification of Missing Requirements and Request to Waive Surcharge" filed via facsimile communication on 07 July 2004, which is being treated as a Petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 27 April 2001, applicants filed the above-captioned international application, which claimed a priority date of 27 April 2000 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 01 November 2001. A Demand for international preliminary examination was filed prior to 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee expired at midnight on 27 October 2002.

On 25 October 2002, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a basic national fee of $890; a translation of the international application; and a preliminary amendment.

On 25 February 2003, applicants filed "Request under 37 CFR 1.48(a) to Correct Inventorship" which included: a declaration executed by Zoltan Ivics, Zsuzsanna Izsvak and Hatem Zayed; a Statement of Added Inventor of Lack of Deceptive Intent; a Written Consent of Assignee to Change in Inventorship; and an assignment. In a decision dated 08 July 2003, applicants' petition to correct inventorship was granted, however, the English

translation of the international application was defective because the number of claims in the International Application and the number of claims in the translation were not the same.

On 03 April 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a) and (b). The Notification of Missing Requirements (Form PCT/DO/EO/905) dated 03 April 2003 was vacated in the Decision dated 08 July 2003.

On 29 June 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the translation of the international application was defective.

On 07 July 2004, applicants filed "Response to Notification of Missing Requirements and Request to Waive Surcharge" which was accompanied by: a copy of the English translation of the international application filed 15 September 2003 and a fax cover sheet dated 15 September 2003.

DISCUSSION

Applicants state in their present petition that an English translation of the international application was received at the United States Patent and Trademark Office on 15 September 2003. A review of the present application reveals that the translation of the international application filed 15 September 2003 is not located therein. The evidence submitted with the petition filed on 07 July 2004 includes: a "TX Report" for a nine-page facsimile sent to the PTO on 15 September 2003; a transmittal letter with a certification of transmission dated 15 September 2003; a copy the nine page facsimile which includes the copy of the English translation of the international application; and a statement from Theodore Gottlieb.

The evidence submitted with the petition, USPTO records, and the statement of Theodore Gottlieb (which attests to the submission of the translation of the international application) is sufficient to establish that the English translation of the international application for this application was received in the PTO on 15 September 2003. Accordingly, it is appropriate to accept the translation of the international application received 08 July 2004 as a replacement for the missing original translation of the international application with a deposit date of 15 September 2003.

Additionally, applicants request that the $130 processing fee under 37 CFR 1.492(f) be withdrawn. Applicants filed an English translation of the international application in compliance with 37 CFR 1.495(c)(1) on 15 September 2003, a date later than 30 months from the priority date, and thus, the charging of the $130 fee under 37 CFR 1.492(f) is proper. Deposit Account No. 14-1263 will be charged a $130 processing fee under 37 CFR 1.492(f) for supplying an English translation later than 30 months from the earliest claimed priority date.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**. In view of the receipt of the translation of the international application filed 15 September 2003, the Notification of Defective Response (Form PCT/DO/EO/916) mailed 29 June 2004 is hereby **VACATED**.

The application has an international filing date of 27 April 2001 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of **15 September 2003**.

This application is being returned to the United States/Designated Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

20 MAY 2003

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Incyte Genomics, Inc.
3160 Porter Drive
Palo Alto, California 94304

In re Application of	:	
LAL et al.	:	
Application No.: 10/258,662	:	DECISION ON PETITION
PCT No.: PCT/US01/13862	:	UNDER 37 CFR 1.182
Int. Filing Date: 27 April 2001	:	
Priority Date: 28 April 2000	:	
Attorney Docket No.: PF-0071USN	:	
For: RNA METABOLISM PROTEINS		

This decision is in response to applicants' "Petition for Name Change of Inventor under 37 CFR 1.182" filed on 14 April 2003. Applicants are requesting to change the name of the seventh named inventor from Jennifer Hillman to Jennifer L. Jackson due to marriage. The petition was accompanied by an affidavit signed by Jennifer L. Jackson using both her former name and present name. The petition fee under 37 CFR 1.17 has been submitted.

DISCUSSION

The Manual of Patent Examining Procedure at § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include the appropriate petition fee and an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or certified copy of the court order.

The petition has been reviewed and is approved. The declaration submitted on 14 April 2003 is accepted.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Jennifer Hillman to Jennifer L. Jackson is **GRANTED**.

This application is being forwarded to United States/Elected Office for further processing in accordance with this decision. he 35 U.S.C. 371(c) date is **14 April 2003**.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100329

DATE : March 29, 2010

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7078552

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:

Pertains to certificate of correction filed 11/26/2008

/DANIEL M SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/26/08

Paper No.: —

TO SPE OF : ART UNIT 2123

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/258700 Patent No: 7266485B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

PAUL RODRIGUEZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE 2123 **Art Unit**

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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JAN 1 8 2005

OFFICE OF PETITIONS

In re Application of :
Kazuhiro Hayashi et al :
Application No. 10/258,702 : ON PETITION
Filed: October 24, 2002 :
Attorney Docket No. 1087.1046USWO :

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

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

The examiner of Technology Center AU 1762 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).

#12

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SEAN P. DALEY
FISH & RICHARDSON
225 FRANKLIN STREET
BOSTON, MA 02110-2804

In re Application of	:	DECISION ON
SHAHEEN et al.	:	
Application No.: 10/258,713	:	PETITION UNDER
PCT No.: PCT/AT01/00130	:	
Int. Filing Date: 27 April 2001	:	37 CFR 1.137(b)
Priority Date: 27 April 2000	:	
Attorney Docket No.: 15626-012US1	:	
For: PHOTOVOLTAIC CELL	:	

The petition to revive under 37 CFR 1.137(b) filed 16 May 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire period of delay was unintentional" has been interpreted as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office.

A review of the application file reveals that the declaration in compliance with 37 CFR 1.497(a) and (b) has been provided. The required petition fee of $750 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 16 May 2005.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459

13 AUG 2003

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ABELMAN, FRAYNE & SCHWAB
150 East 42nd Street
New York, NY 10017

In re Application of	:	
SHALEV, Alon, et al.	:	
U.S. Application No.: 10/258,714	:	
PCT No.: PCT/IL01/00402	:	DECISION
International Filing Date: 07 May 2001	:	
Priority Date: 08 May 2000	:	
Attorney's Docket No.: 205,940	:	
For: METHOD AND APPARATUS FOR STIMULATING THE SPHENOPALATINE GANGLION TO MODIFY PROPERTIES OF THE BBB AND CEREBRAL BLOOD FLOW	:	

This application is before the PCT Legal Office for consideration of issues arising under 37 U.S.C. 371.

BACKGROUND

On 07 May 2001, applicants filed international application PCT/IL01/00402, which claimed priority of an earlier application filed 08 May 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 15 November 2001. A Demand for international preliminary examination electing the United States was filed on 07 December 2001, which was prior to the elapse of 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 08 November 2002.

On 25 October 2002 a "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371" was filed for this international application by above-named counsel. This submission included payment of the basic national fee and was assigned application number 10/258,714. Above-named counsel subsequently filed a declaration executed by the inventors and appointing such attorneys to prosecute this application.

On 08 November 2002, counsel from a different law firm filed a "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371," which also indicated that the filing was intended as a national stage filing of PCT/IL01/00402. This submission was assigned application number 10/275,709..

DISCUSSION

As is evident from the above recited facts, two sets of papers to enter the national stage have been submitted for international application number PCT/IL01/00402 (United States application numbers 10/258,714 and 10/275,709). The end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, the submission of two sets of national stage papers to enter the United States was improper.

As noted above, the documents filed in application number 10/258,714 include a declaration executed by the inventors. This declaration includes an appointment of counsel. The documents filed in application number 10/275,709 do not include a declaration or a power of attorney. Accordingly, application number 10/258,714 will be treated as the United States national stage application file for international application PCT/IL01/00402.

CONCLUSION

The papers filed on 08 November 2002 in application number 10/275,709 have been placed in the file of application number 10/258,714.

Application 10/275,709 will be discontinued.

This ongoing application, 10/258,714, is being forwarded to the National Stage Processing Division for further processing in accord with this decision, including the processing of the response to the Notification Of Missing Requirements filed by applicants on 22 January 2003.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

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ANDRUS SCEALES STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE, WI 53202

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OFFICE OF PETITIONS

In re Application of :
Rainer Pommersheim :
Application No. 10/258,752 : ON PETITION
Filed: August 19, 2003 :
Attorney Docket No. 825-169 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 14, 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 February 14, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 15, 2006.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $510 extension of time submitted with the petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This matter is being referred to Technology Center AU 1711 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

25 JUN 2003

#3

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Starr Braun-Huon
15 Rue de la Gaite
Le Perreux 94170 FRANCE

In re Application of	:	
Starr BRAUN-HUON	:	
Application No.: 10/258,753	:	
PCT No.: PCT/US01/15251	:	
Int. Filing Date: 11 May 2001	:	
Priority Date: 12 May 2000	:	COMMUNICATION
Attorney Docket No.: None	:	
For: INTERACTIVE SYSTEM FOR PROCESSING:		
AND RETRIEVING DATA RELATING TO A	:	
PARTICULAR DESTINATION VIA A	:	
COMMUNICATION	:	

This application is before the PCT Legal Office for consideration of matters arising under 35 U.S.C. 371.

On 11 May 2001, applicant filed international application No. PCT/US01/15251, which claimed a priority date of 12 May 2000 and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 22 November 2001.

On 01 November 2001, a Demand was filed with the International Preliminary Examining Authority electing the United States. As a result the deadline for payment of the basic national fee was extended to expire in 30 months from the priority date, or on 21 February 2001.

On 29 October 2002, within the thirty month period of the priority date, applicant filed a transmittal letter requesting entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee of $50 (for small entity, where all claims satisfied provisions of PCT Article 33(1)-(4)) and an executed declaration.

On 21 March 2003, a Notification of Abandonment (FORM PCT/DO/EO/909) was inadvertently mailed to applicants.

DISCUSSION

A review of the application file reveals that all of the 35 U.S.C. 371 requirements were met upon entry into the national stage on 29 October 2002.

The Notification of Abandonment (FORM PCT/DO/EO/909) was erroneously issued on 21 March 2003 and will be vacated. The 35 U.S.C. 371(c) date is **29 October 2002.**

CONCLUSION

The Notification of Abandonment (FORM PCT/DO/EO/909) mailed 21 March 2003 is hereby **VACATED**.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c) date is **29 October 2002.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

CMK:cmk

Telephone: (703) 306-5467
Facsimile: (703) 308-6459

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WEAN KHING WONG
ATTORNEY AT LAW
1441 HUNTINGTON DRIVE
PMB 210
SOUTH PASADENA, CA 91030

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OFFICE OF PETITIONS

In re Application of :
Harry A. McKellop et al :
Application No. 10/258,762 : DECISION GRANTING PETITION
Filed: October 25, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 11OR2PCUS :

This is a decision on the petition, filed August 6, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 13, 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 1711 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\aug10\258762.wpd

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

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MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

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OFFICE OF PETITIONS

In re Application of :
James William Larrick et al :
Application No. 10/258,763 : DECISION GRANTING PETITION
Filed: October 25, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 415142000400 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 23, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the nonfinal Office action mailed July 2, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 3, 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; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of July 2, 2003 is accepted as having been unintentionally delayed.

Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response expired. Therefore, no extension fees are due on a petition for revival. In view thereof, the extension of time fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account as authorized.

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

This matter is being referred to Technology Center AU 1648 for appropriate action on the amendment filed June 23, 2004.

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

20 FEB 2

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#10

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Blackwell Sanders Peper Martin LLP
720 Olive Street, Suite 2400
St. Louis, MO 63101

In re Application of DE JONG et al	:	
U.S. Application No.: 10/258,766	:	
PCT Application No.: PCT/EP01/04764	:	
Int. Filing Date: 26 April 2001	:	DECISION
Priority Date Claimed: 26 April 2000	:	
Attorney Docket No.: 717816.17	:	
For: RGD (ARG-GLY-ASP) COUPLED TO (NEURO)PEPTIDES	:	

This is in response to applicant's "Letter" filed 22 January 2004, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 26 April 2001, applicant filed international application PCT/EP01/04764, which claimed priority of an earlier European Patent Office application filed 26 April 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 01 November 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 21 November 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 26 October 2002.

On 25 October 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 09 December 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed along with a sequence listing in both paper and computer readable form.

On 24 February 2003, applicant filed an executed declaration and a sequence listing in both paper and computer readable form.

On 10 June 2003, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which required applicant to submit a corrected sequence listing in both paper and computer readable form.

On 01 July 2003, applicant purportedly filed the required sequence listing.

On 22 January 2004, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The evidence of record is sufficient to establish that the sequence listing was originally filed on 01 July 2003. Specifically, the copy of the return postcard, which includes the sequence listing in its itemized contents and which bears a USPTO date stamp of 01 July 2003, serves as *prima facie* evidence that the sequence listing was received by the USPTO on 01 July 2003.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 26 April 2001, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 24 February 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including a review of the sequence listing filed 01 July 2003.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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David E. Spaw
Rankin, Hill, Porter & Clark, LLP
4080 Erie Street
Willoughby, OH 44094

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OFFICE OF PETITIONS

In re Patent No. 7,060,957	:	
Issue Date: June 13, 2006	:	
Application No. 10/258,784	:	ON PETITION
Filed: December 9, 2002	:	
Patentee(s): Robert Lange, et. al.	:	

This is a decision on the request under 37 CFR 3.81[1], filed August 31, 2006, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction. The delay in responding is regretted.

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/she is authorized to represent the particular party in whose behalf he/she acts.

It is noted that on May 1, 2007, a Certificate of Correction was issued with the correct name of the assignee.

Since the request is found to be in compliance with 37 CFR 3.81, the request is being treated as having been granted prior to the mailing of the Certificate of Correction dated May 1, 2007. Accordingly, the request is **GRANTED** and this decision ratifies the ensuing prosecution.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

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[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: 7/18/05

rvk
Paper Number: ____

In re application of :
Horst Petersen et al : DECISION ON
Serial No. 10/258,788 : PETITION
Filed: December 18, 2002 :
For: RADIATION FLOOD SOURCE AND METHOD FOR PRODUCING THE SAME :

This is a response to the PETITION UNDER 37 C.F.R. 1.181 TO WITHDRAW A HOLDING OF ABANDONMENT AND, ALTERNATIVELY, PETITION UNDER 37 C.F.R. 1.137 (b) to REVIVE ABANDONED APPLICATION, filed May 31, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of April 08, 2005, for failure to timely file a proper response to the Office letter dated August 11, 2004 be withdrawn. The petitioner asserts that the Office letter of August 11, 2004 was mailed to an old address in the record and not received by the petitioner.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

A review of the instant application file indicates that the Office letter of August 11, 2004 was mailed to the old correspondence address of the petitioner in the record, which is :

STEPHEN A PENDORF
PENDORF & CUTLIFF
P.O.BOX 20445
TAMPA, FL 33622-044

It is noted that the attorney filed a change of correspondence address on March 04, 2005 to include reference to customer number 000041288. The instant petition requested that future correspondence be addressed to :

PENDORF & CUTLIFF
5111 MEMORIAL HIGHWAY
TAMPA, FL 33634-7356

It thus appears that the Office letter was mailed to the old address, still of record, at a time when the petitioner was located at the new address. Since it is applicants' responsibility to promptly inform the Office of any change of correspondence address (see MPEP 601.03), and the applicants did not file a notification of mailing address change to the USPTO until March 04, 2005 (i.e. more than six months from the mailing date of the Office letter of August 11, 2004), therefore, the request cannot be granted.

The application will be forwarded to the Office of Petitions to process the petition under 37 C.F.R. 1.137(b) to revive the instant abandoned application based on unintentional delay.

Therefore, this application stands abandoned.

The Petition is **DENIED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

PENDORF & CUTLIFF
5111 MEMORIAL HIGHWAY
TAMPA, FL 33634-7356

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5111 MEMORIAL HIGHWAY
TAMPA, FL 33634-7356

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JAN 23 2006

OFFICE OF PETITIONS

In re Application of :
Horst Petersen, et. al. :
Application No. 10/258,788 : ON PETITION
Filed: December 18, 2002 :
Attorney Docket No. 3993.008 :

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

The petition is **GRANTED**.

The application became abandoned for failure to the non-final Office action mailed August 11, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

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

The application file is being referred to Technology Center Art Unit 1775, for review of the amendment filed with the instant petition.

Andrea Smith
Petitions Examiner
Office of Petitions

0 9 JUN 2003

#4

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WENDEROTH, LIND & PONACK, L.L.P.
2033 K Street N.W.
Suite 800
Washington, DC 20006-1021

In re Application of :
KOBAYASHI, Hideaki *et al* :
Application No.: 10/258,805 :
PCT No.: PCT/JP01/03684 : **DECISION ON**
Int. Filing Date: 27 April 2001 :
Priority Date: 28 April 2000 : **PETITION UNDER**
Attorney's Docket No.: 2002-136A :
For: SOUND DISTRIBUTION SYSTEM : **37 CFR 1.181**
ACCOMPANIED BY COMPOSITION :
AND SOUND DISTRIBUTION SYSTEM :
ACCOMPANIED BY CHARGING :

This decision is in response to applicants' "Response to Notification of Missing Requirements" filed on 28 April 2003 which is treated as a petition under 37 CFR 1.181. No fee is required.

BACKGROUND

On 29 January 2003, applicants purportedly filed documents in the above-captioned application which included an executed declaration.

On 15 April 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an executed declaration in compliance with 37 CFR 1.497(a) & (b) must be provided. A two-month time period for response was set.

On 28 April 2003, applicants filed the instant petition which was accompanied by, *inter alia*, a stamped postcard receipt for the 29 January 2003 documents and a copy of the documents purportedly filed 29 January 2003.

DISCUSSION

A review of the above-captioned application in the Office reveals that no documents dated 29 January 2003 were located in the file including an executed declaration. Nevertheless, USPTO financial records indicate that a surcharge fee and assignment fee were paid on 29 January 2003 in the above-captioned application.

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. Applicants must enclose a self-addressed postcard identifying all of the papers filed.

The USPTO will stamp the receipt date on the card and place it on the outgoing mail. The identifying data on the card must clearly identify the paper for which receipt is requested. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants have provided a copy of the date-stamped filing receipt for documents submitted 29 January 2003. The name of the applicants, attorney docket number, application number, and title are all listed on the postcard receipt. The postcard receipt records that among the documents received in the USPTO included an "Executed Declaration". The postcard receipt is stamped "OIPE JAN 29 2003" across its face.

Accordingly, applicants have provided *prima facie* evidence that the declaration and other documents listed above were received by the USPTO on 29 January 2003. Applicants included a copy of the executed declaration signed by the inventors in the instant petition which shows that it is in compliance with 37 CFR 1.497(a) & (b).

DECISION

For the reasons above, applicants' petition under 37 CFR 1.181 is **GRANTED**.

The Form PCT/DO/EO/905 mailed 15 April 2003 is hereby **VACATED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 27 April 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of **29 January 2003.**

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

09 SEP 2003

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DICKSTEIN SHAPIRO MORIN &
OSHINSKY LLP
1177 Avenue of the Americas, 41st Floor
New York, NY 10036-2714

In re Application of	:	DECISION ON
Hiroyoshi Fujita et al	:	
PCT No.: PCT/JP01/03723	:	
Application No.: 10/258,811	:	PAPERS FILED
Int. Filing Date: 27 April 2001	:	
Priority Date: 27 April 2000	:	
Attorney's Docket No.: G0126.0220/0US0	:	UNDER 37 CFR 1.42
For: ENVIRONMENT INFORMATION ...	:	
AND RECORDED MEDIUM	:	

This is a decision on the declaration filed 24 June 2003, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 28 October 2002, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). Applicant, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because an executed oath or declaration was not provided at such time.

On 19 February 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and(b), identifying the application by International application number and international filing date" must be submitted within two(2) months from its 19 February 2003 date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application. In addition, a surcharge for providing the oath or declaration later than the appropriate 30 months from the priority date will be required under 37 CFR 1.492(e).

To satisfy the requirements of 35 U.S.C. 371(c)(4) that an oath or declaration of the inventor be submitted, applicant submitted on 24 June 2003 a declaration by Osamu MATSUNAGA as legal representative of the inventor now deceased Hiromi MATSUNAGA.

DISCUSSION

A review of the application file reveals that the declaration does not comply with 37 C.F.R. §1.497(b)(2).

Because the inventor Hiromi MATSUNAGA is deceased and Osamu MATSUNAGA has been appointed as the legal representative for the deceased inventor, 37 C.F.R. §1.497(b)(2) indicates that "[i]f the person making the oath or the declaration or any supplemental or oath or declaration is not the inventor (§§1.42, 1.43, or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state (the inventors citizenship and so on). If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative." (see MPEP § 409.01)

In this instance, the residence and citizenship of the legal representative have not been provided as required under 37 C.F.R. §1.497(b)(2).

Consequently, applicants have not satisfied the requirements under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **not accepted**.

Applicant is required to provide an oath or declaration in compliance with 37 CFR 1.497(a)-(b) within TWO (2) MONTHS from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

Richard Cole
PCT Legal Examiner
PCT Legal Office

16 MAR 2004

#6

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DICKSTEIN SHAPIRO MORIN &
OSHINSKY LLP
1177 Avenue of the Americas, 41st Floor
New York, NY 10036-2714

In re Application of	:	DECISION ON
Hiroyoshi Fujita et al	:	
PCT No.: PCT/JP01/03723	:	
Application No.: 10/258,811	:	RENEWED PAPERS FILED
Int. Filing Date: 27 April 2001	:	
Priority Date: 27 April 2000	:	
Attorney's Docket No.: G0126.0220/0US0	:	UNDER 37 CFR 1.42
For: ENVIRONMENT INFORMATION ...	:	
AND RECORDED MEDIUM	:	

This is a decision on the papers filed 28 January 2004, which has been treated as a renewed request for status under 37 CFR 1.42.

BACKGROUND

In a decision from this Office on 09 September 2003, the request filed on 24 June 2003 was dismissed. The decision stated that the petition did not comply with 37 CFR §1.497(b)(2) because the declaration was incomplete. The decision indicated an acceptable declaration under 37 CFR §1.497(b)(2) states the citizenship, residence, mailing address of the legal representative, Osamu MATSUNAGA.

On 28 January 2004, applicants filed the present renewed submission under 37 CFR § 1.42 accompanied with a declaration, and a copy of the USPTO stamped postcard dated 10 November 2003.

On 11 March 2004, applicants faxed, inter alia, a copy of the declaration submitted on November 10, 2003 and a communication indicating that this a true copy of the original Revised Declaration submitted on November 10, 2003.

DISCUSSION

Postcard:

Applicants indicate that the revised declaration was submitted on 10 November 2003 as indicated by postcard, which lists:

(1) Revised Declaration (2 Page)

The postcard lists the above item and bears a USPTO date of stamp as 10 November 2003.

MPEP 503 provides:

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicant's postcard is accepted as *prima facie* that a Revised Declaration was deposited with the U.S. Patent and Trademark Office on 10 November 2003.

Accordingly, the date of receipt for the Declaration is 10 November 2003.

37 CFR 1.42:

The renewed submission includes, a newly executed declaration signed by Osamu MATSUNAGA as Legal Representative of the deceased inventor (Hiromi MATSUNAGA) and the declaration now sets forth the residence, citizenship and mailing addresses of both the deceased inventor and the legal representative. Accordingly, applicants have satisfied the requirements under 37 CFR 1.42.

CONCLUSION

The renewed submission filed under 37 CFR 1.42 is **ACCEPTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continue processing and indicating a date of **10 November 2003** under 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4).

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

Richard Cole
PCT Legal Examiner
PCT Legal Office

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Date : April 7, 2007

Patent No. : 7,169,393 B2
Inventor(s) : Vanniasinkam, et al.
Issued : Jan. 30, 2007
Title : **ANTIGENIC PEPTIDE FRAGMENTS OF VAPA PROTEIN, AND USES THEREOF**
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 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is denied.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

Coleman Sudol Sapone PC
714 colorado Avenue
Bridgeport CT 06605-1601

CBN/eme

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HENRY D. COLEMAN
COLEMAN SUDOL SAPONE PC
714 COLORADO AVENUE
BRIDGEPORT, CT 06605-1601

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OFFICE OF PETITIONS

In re Patent No. 7,169,393 :
Issue Date: January 30, 2007 :
Application No. 10/258,829 : ON PETITION
Filed: April 21, 2003 :
Attorney Docket No. A20-045 :

This is a decision on the petition filed July 5, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

11 AUG 2005

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

In re Application of YOUNG et al :
U.S. Application No.: 10/258,838 :
PCT Application No.: PCT/US01/13615 :
Int. Filing Date: 27 April 2001 : DECISION
Priority Date Claimed: 28 April 2000 :
Attorney Docket No.: 1739/1H054US1 :
For: METHOD AND APPARATUS FOR MANUFACTURING COMPOSITE SHEET-LIKE MATERIALS :

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 21 July 2005.

BACKGROUND

On 27 April 2001, applicant filed international application PCT/US01/13615, which claimed priority of an earlier United States application filed 28 April 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 27 November 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 28 October 2002.

On 28 October 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 04 April 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

International application PCT/US01/13615 became abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

On 21 July 2005, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

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

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 27 April 2001, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 21 July 2005.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

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SEP 23 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of : **DECISION ON PETITION**
Gregory W. Harper, et al. : **TO MAKE SPECIAL**
Application No. 10/258,848 : **(INFRINGEMENT)**
Filed: March 7, 2003 :
For: USER-PERSONALIZED MEDIA SAMPLING, RECOMMENDATION AND PURCHASING SYSTEM USING REAL-TIME INVENTORY DATABASE

This is a decision on the petition under 37 C.F.R § 1.102(d) filed June 18, 2003 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed June 13, 2003 includes all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

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

RAR/ekn 9/22/03

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OFFICE OF PETITIONS

AT & T LEGAL DEPARTMENT - NDQ
ATTN: PATENT DOCKETING
ONE AT & T WAY, ROOM 2A-207
BEDMINSTER NJ 07921

In re Application of :
Walker, et al. :
Application No. 10/258,849 : ON PETITION
Filed: October 29, 2002 :
Attorney Docket No. 2001-0041 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 9 2009.

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

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed December 3, 2008. This Notice set a statutory period for reply of three (3) months for issue fee transmittal. No issue fee having been received, the application became abandoned on March 4, 2009. A Notice of Abandonment was mailed on March 30, 2009.

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

25 JUN 2003

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Benoît Castel
YOUNG & THOMPSON
745 South 23rd Street
Arlington, VA 22202

In re Application of :
HIRANO, Tetsuji *et al* :
U.S. Application No.: 10/258,865 :
PCT No.: PCT/JP02/04429 :
Int. Filing Date: 07 May 2002 :
Priority Date: 08 May 2001 :
Attorney Docket No.: 8007-1029 :
For: POLYELECTROLYTE FOR SOLID POLYMERIC FUEL CELLS AND FUEL CELL :

DECISION ON PETITION UNDER 37 CFR 1.42

This is a decision on the declaration filed 29 October 2002 which has been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 29 October 2002, applicants filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 which was accompanied by, *inter alia*, an executed declaration.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Applicants have furnished a declaration with the national stage papers signed by two of the three listed co-inventors, Tetsuji Hirano and Masayuki Kinouchi, and by Chizuyo Maeda, Daisuke Maeda and Megumi Maeda as legal representatives of deceased co-inventor, Mitsuo Maeda.

A review of the declaration reveals that the citizenship of the three co-inventors are listed on the declaration pursuant to 37 CFR 1.497(a)(3). In addition, the citizenship and residence and mailing address of the three legal representatives are recorded on the declaration pursuant to 37 CFR 1.497(b)(2). This declaration complies with the requirements of 37 CFR 1.497(a) and (b).

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 07 May 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of **29 October 2002**.

This application is being forwarded to the United States Designated/Elected Office for further processing in accordance with this decision.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

Request for Legal Staff Consideration

RECEIVED
05 JUL 2007
Legal Information

Serial No. 10/258865 Date 30 May 2003

Request: Deceased inventor on Declaration.

Requestor Christine Washington Supervisor Cathy Short

THANKS

Response: dec good under 37CFR 1.42

By: _____ Date 6-25

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Jonathan Y. Kang
LEE & HONG
11th Floor
221 North Figueroa Street
Los Angeles, CA 90012-2601

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OFFICE OF PETITIONS

In re Application of: KIM, Hyung, Sun
U.S. Application No.: 10/258,885
Filing Date: October 29, 2002
Attorney's Docket No.: 2080-3-128
For: METHOD OF RECORDING AND REPRODUCING SAMPLE DATA TO/FROM A RECORDING MEDIUM AND SAMPLE DATA CONTAINING RECORDING MEDIUM

DECISION ON PETITION
(37 CFR 1.137(b))

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-entitled application, filed April 11, 2005.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the non-final Office action mailed July 13, 2004, which set a shortened statutory period for reply of three (3) months. A response was not filed and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned at midnight on October 13, 2004.

The present petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response to the Office action mailed July 13, 2004; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of July 13, 2004 is accepted as having been unintentionally delayed.

The application file is being referred to Technology Center AU 2653

It is noted that the present petition was accompanied by a "Change Of Correspondence Address" (Form PTO/SB/122) executed by Robert E. Kasody, identified on such form as attorney of record. However, Mr. Kasody is not one of the attorneys appointed by applicants in the "Declaration and Power Of Attorney" filed herein. The present Change Of Correspondence Address is therefore not effective to change the correspondence address of record. A courtesy copy of this decision will be forwarded to the Customer Number set forth in the Change Of Correspondence Address form; however, until submission of an acceptable Change Of

Correspondence Address, all future communications with respect to this application will be mailed only to above-listed attorney and correspondence address of record.

Telephone inquiries concerning this decision should be directed to Richard M. Ross at (571) 272-3296 or, in his absence, the undersigned at (571) 272-3217.

Frances Hicks for

Brian Hearn
Petitions Examiner
Office Of Petitions

cc: LEE HONG DEGERMAN KANG & SCHMADEKA
801 South Figueroa Street
14th Floor
Los Angeles, CA 90017

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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

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MAR 13 2006

OFFICE OF PETITIONS

In re Application of Hughes :
Application No. 10/258,910 : Decision on Petition
Filing Date: March 31, 2003 :
Attorney Docket No. 67056-004 :

This is a decision on the petition under 37 CFR 1.181, filed January 5, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

Facts:

A non-final Office action was mailed on May 12, 2005.

The Office record failed to reveal receipt of a reply to the non-final Office action. Therefore, the application was deemed abandoned as of midnight on August 12, 2005.

A Notice of Abandonment was mailed December 13, 2005.

Petitioner contends a reply was timely submitted by facsimile transmission on August 3, 2005.

In support of petitioner's contention, the petition includes:
(1) a facsimile transmission report, and
(2) a copy of the amendment.

As to (1), the transmission report lists the correct facsimile number for the PTO. The report indicates 9 pages were transmitted. The copy of the papers allegedly filed on August 3, 2005, includes 9 pages. The report indicates the papers were transmitted on Wednesday, August 3, 2005, at 12:31pm (the Office assumes pm rather than am). The word, "OK" appears beside the word "Result" on the report.

The amendment is 9 pages long with the pages labeled 1 to 9. The last page is numbered as page 9 and includes the application number and docket number in the header. The main body of the page includes only a certificate of mailing which references "this correspondence."

Analysis:

Based on the complete record, the Office is satisfied the showing complies with 37 CFR 1.8(b).

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The Office wishes to note that a similar showing in the future might not result in a similar result. *As a courtesy*, the Office wishes to inform petitioner of the benefits of including an itemization of papers on the certificate of mailing sheet. MPEP 512 states,

> When the certification is presented on a separate sheet, that sheet must (1) be signed and (2) fully identify and be securely attached to the paper it accompanies. The required identification should include the serial number and filing date of the application as well as the type of paper being filed, e.g., reply to rejection or refusal, Notice of Appeal, etc. An unsigned certification will not be considered acceptable.
>
> Moreover, without the proper identifying data, a certification presented on a separate sheet will not be considered acceptable if there is any question or doubt concerning the connection between the sheet and the paper filed.

In the future, petitioner may wish to itemize all papers when listing the certificate of mailing on a separate sheet.

Technology Center Art Unit 1700 will be informed of the instant decision so that the examiner may consider the copy of the amendment filed with the petition in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
PABST, Otto et al. :
Application No. 10/258,916 : DECISION ON PETITION
Filed: October 28, 2002 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed September 11, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 28, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 29, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of an amendment; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future

correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

This application is being referred to the Technology Center Art Unit 2836.

Telephone inquiries concerning this decision should be directed to Monica Graves at (571) 272-7253.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: **MARK D. PRATT**
BELL BOYD & LLOYD
P.O. BOX 1135
CHICAGO, IL 60690-1135

SCANI **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/8/08

TO SPE OF : ART UNIT 2831 Nino, Adolfo

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/258921 Patent No.: 7030322

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

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

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

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: AE 9/29/08

DIEGO GUTIERREZ
SUPERVISORY PATENT EXAMINER

SPE

2831
Art Unit

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#5

14 JUL 2003

Robert Berliner
Fulbright & Jaworski L.L.P.
865 South Figueroa
Twenty-Ninth Floor
Los Angeles, CA 90017-2571

In re Application of VICENTE et al :
U.S. Application No.: 10/258,948 :
PCT Application No.: PCT/US01/15433 :
Int. Filing Date: 09 May 2001 : DECISION
Priority Date Claimed: 09 May 2000 :
Attorney Docket No.: LA-1279-321 :
For: PORPHYRIN-BASED NEUTRON :
CAPTURE AGENTS FOR CANCER THERAPY :

This is in response to applicant's "Petition Under 37 CFR 1.10(e)" filed 02 July 2003, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 09 May 2001, applicant filed international application PCT/US01/15433, which claimed priority of an earlier United States application filed 09 May 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 02 December 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 09 November 2002.

On 29 October 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 27 March 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 02 April 2003, applicant purportedly filed an executed declaration.

On 02 July 2003, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The evidence of record is sufficient to establish that the declaration was originally filed on 02 April 2002. Specifically, the copy of the return postcard, which includes a "executed Declaration" in its itemized contents and which bears a USPTO date stamp of 02 April 2002, serves as *prima facie* evidence that the declaration was received by the USPTO on 02 April 2002.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 09 May 2001, and a date under 35 U.S.C. 371(c) of 02 April 2002.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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SEED INTELLECTUAL PROPERTY LAW GROUP
701 FIFTH AVENUE
SUITE 6300
SEATTLE, WA 98104-7092

In re Application of	:
Jeffrey R. Raymond et al	:
Serial No.: 10/258,950	: PETITION DECISION
Filed: March 13, 2003	:
Attorney Docket No.: 480117.407	:

This is in response to the petition under 37 CFR 1.144, filed June 13, 2006, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was accepted under 35 U.S.C. 371 on March 13, 2003, and contained claims 64-126, as amended. In a first Office action, mailed October 7, 2005, the examiner set forth a Lack of Unity, as follows:

Group I – Claim 64, drawn to compounds where R^1, R^2, R^3 and R^4 do not form any heterocyclic or non-heterocyclic ring and all rings are saturated;
Group II – Claims 65-, where R^1 and R^2 form a piperidine as the only heteroring;
Group III – Claims 65-, where R^1 and R^2 form a morpholine as the only heteroring;
Group IV – Claims 65-, where R^1 and R^2 form a 1,4 diazine as the only heteroring;
Group V – Claims 65-, where R^1 and R^2 form a pyrrolidine as the only heteroring;
Group VI - Claims 66-, where R^1 and R^2 do not form a ring;
Group VII - Claims 67-68, where R^1 and R^2 form a pyrazole as the only heteroring;
Group VIII - Claims 67-68, where R^1 and R^2 form a pyrazole as the only heteroring;
Group IX - Claims 64-, drawn to compounds where R^1, R^2, R^3 and R^4 do not form any heterocyclic or non-heterocyclic ring and all rings are saturated;
Group X - Claims 65-, where R^1 and R^2 form a piperidine as the only heteroring;
Group XI - Claims 65-, where R^1 and R^2 form a morpholine as the only heteroring;
Group XII - Claims 65-, where R^1 and R^2 form a 1,4 diazine as the only heteroring;
Group XIII - Claims 65-, where R^1 and R^2 form a pyrrolidine as the only heteroring;
Group XIV - Claims 66, where R^1 and R^2 do not form any heterocyclic on non-heterocyclic ring;

Group XV - Claims 67-68, where R^1 and R^2 form a pyrrazole as the only heteroring;
Group XVI - Claims 65-, where R^1 and R^2 form a pyrrazole as the only heteroring;
Group XVII – Claims 69-110 and 126, drawn to compounds and pharmaceutical compositions subject to the same restrictions as above; and
Group XVIII – claims 111-125, drawn to methods of use of the claimed invention

The examiner reasoned that the compounds lacked a special technical feature and therefore lacked unity. The examiner also required an election of species within whichever Group was elected and indicated the method claims would be rejoined with the elected group, if allowable.

Applicants replied on December 7, 2005, electing the compounds of Group II, with traverse, and a species. Applicants noted first that some of the Groups set forth by the examiner were unclear, specifically Groups I, VIII, IX, XI and XVI where it is stated that none of the compounds have a heterocyclic or non-heterocyclic ring. However, claim 64 requires that R^1 together with the nitrogen to which it is attached form a fused ring with Ring A or form a heterocyclic ring with R^2. Also Groups VII and VIII are identical in scope and Group IX is identical to Group II and Group XV and XVI are identical. Further some compounds encompassed within the claims do not fall into any of the enumerated Groups. Applicants additionally argued that Unity of Invention is satisfied here in that the special technical feature is defined by a structural element common to all compounds and that the compounds as a whole make a contribution over the art. Other inconsistencies in the requirement are also pointed out.

The examiner mailed a new Office action to applicants on March 13, 2006, acknowledging the election of Group II, indicating that it was believed to be Group III based on the species of morpholine elected, and maintaining the requirement, but not making it Final. The examiner then rejected claims 64-65 under 35 U.S.C. 112, second paragraph, as indefinite and for obvious double patenting over US 6,635,629.

This petition was filed on June 13, 2006, requesting withdrawal of the finality of the restriction requirement. A response to the Office action was concurrently filed.

DISCUSSION

It is noted that the examiner did not make the Lack of Unity requirement Final in the last Office action, however the requirement was repeated without modification and is therefore considered a repeated action subject to review by petition under 37 CFR 1.181.

A review of the compound claims, as filed, shows that they are directed to various steroid compounds. Steroids have a well defined fused four ring structure which varies only in whether double bonds occur at specific locations and are a recognized class of chemical compounds. Numerous steroids are known having varying points and degrees of substitution which affect the property or activity of the steroid. Claims 64-110 and 126 are all directed to steroid compounds or pharmaceutical compositions containing the steroid compounds and must be considered together. Claims 111-125 are directed to various methods of treatment and under PCT Rule 13.2 applicants are entitled to examination of the first method of use (treating inflammation) with the compound claims.

Annex B of the PCT Adminstrative Instructions contains the following guidance with respect to Markush group claims when determining Unity of Invention:

> (f)(i) When the Markush grouping is for alternatives of chemical compounds, they shall be regarded as being of a similar nature where the following criteria are fulfilled:
>
> (A) all alternatives have a common property or activity, and
>
> (B) (1) a common structure is present, i.e., a significant structural element is shared by all of the alternatives, or
>
> (B) (2) in cases where the common structure cannot be the unifying criteria, all alternatives belong to a recognized class of chemical compounds in the art to which the invention pertains.
>
> (ii) In paragraph (f)(i)(B)(1), above, the words "significant structural element is shared by all of the alternatives" refer to cases where the compounds share a common chemical structure which occupies a large portion of their structures, or in case the compounds have in common only a small portion of their structures, the commonly shared structure constitutes a structurally distinctive portion in view of existing prior art, and the common structure is essential to the common property or activity. The structural element may be a single component or a combination of individual components linked together.
>
> (iii) In paragraph (f)(i)(B)(2), above, the words "recognized class of chemical compounds" mean that there is an expectation from the knowledge in the art that members of the class will behave in the same way in the context of the claimed invention. In other words, each member could be substituted one for the other, with the expectation that the same intended result would be achieved.
>
> (iv) The fact that the alternatives of a Markush grouping can be differently classified shall not, taken alone, be considered to be justification for a finding of a lack of unity of invention

The examiner in making a Lack of Unity holding has divided the Markush Group into a number of different Groups based on lack of a special technical feature defined as lacking a significant structural element which defines over the art. The examiner has held that the significant structural element, the steroid structure, does not define over the art. However, (B)(2) permits grouping together compounds having a known significant structural element where that element belongs to or defines a recognized class of chemical compounds (see (iii) above). The steroid structure meets these criteria.

In view of these guidelines, Lack of Unity does not here exist and the examiner's holding of Lack of Unity is withdrawn. Applicants' comments with respect to the inability to understand the scope of the different groupings is also noted (and accurate), but in view of the withdrawal of the holding is moot. It is also noted that the Lack of Unity set forth appears to pertain only to claims 64-68, and not all of the compound claims, which is improper.

DECISION

The petition is **GRANTED.** The Lack of Unity holding is withdrawn and an action on the merits of all compound claims and the first method of use will be forthcoming.

The application will be forwarded to the examiner for consideration of applicants' reply filed June 13, 2006, and further action not inconsistent with this decision.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Bruce M. Kisliuk.
Director, Technology Center 1600

30 MAY 2003

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Raymond C. Stewart
Birch, Stewart, Kolasch & Birch, LLP
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of	:	
Allegretti, et al.	:	
Serial No.: 10/258,959	:	DECISION ON
PCT No.: PCT/EP01/04137	:	PETITION
Int. Filing Date: 11 April 2001	:	UNDER 37 CFR 1.137(b)
Priority Date: 14 April 2000	:	
Attorney's Docket No.: 3765-0106P	:	
For: AMIDES OF *R*-2-(AMINOARYL)-	:	
PROPIONIC ACIDS FOR USE IN THE	:	
PREVENTION OF LEUCOCYTE ACTIVATION	:	

This decision is responsive to the "PETITION FOR REVIVIAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)" filed 30 October 2002.

BACKGROUND

On 11 April 2001, applicants filed international application PCT/EP01/04137, which claimed priority of an earlier Italian application filed 14 April 2000. A copy of the international application was received by the United States Patent and Trademark Office from the International Bureau on 25 October 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 12 November 2001 prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 14 October 2002.

On 30 October 2002, applicants filed the current petition along with a transmittal letter for entry into the national stage in the United States. The transmittal letter was accompanied by a preliminary amendment, a petition to revive, a check for the petition to revive and a check for the basic national fee. These papers were assigned Application No. 10/258,959.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional delay must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied (1) by 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," (2) by a proper reply, (3) by the petition fee required by law (37 CFR 1.17(m)), and (4) if the international filing date of the application is before June 8, 1995, any petition to revive under 37 CFR 1.137(b) must be accompanied by a terminal disclaimer and small entity fee of $55

Applicant have provided a the required statement, a proper reply and the petition fee. Therefore, the petition to revive is GRANTED.

CONCLUSION

The petition to revive the application is **GRANTED**.

The application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Debra Brittingham
PCT Legal Office
DSB/BM:dsb

Conferee: Boris Milef
PCT Legal Examiner
PCT Legal Office

Tel: (703) 305-3401
Fax: (703) 308-6459

22 AUG 2003

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PO Box 747
Falls Church, VA 22040-0747

In re Application of :
Allegretti et al. :
US Application No.: 10/258,959 :
PCT Application No.: PCT/EP01/04137 :
International Filing Date: 11 April 2001 : DECISION ON REQUEST
Priority Date: 14 April 2000 : UNDER 37 CFR 1.42
Attorney's Docket No.: 3765-0106P :
For: AMIDES OF *R*-2-(AMINOARYL)- :
PROPIONIC ACIDS FOR USE IN :
THE PREVENTION OF LEUCOCYTE :
ACTIVATION :

This decision concerns the "Letter Submitting Additional Documents for Entering National Phase for a PCT Application" filed on 5 August 2003, indicating that one of the named inventors for the above-referenced application is deceased. The correspondence is being properly treated as a request for status under 37 CFR 1.42, that the legal representative(s) of the deceased inventor be allowed to file the application on behalf of the deceased inventor.

BACKGROUND

On 11 April 2001, Applicants filed international application PCT/EP01/04137, which claimed priority of an earlier application filed 14 April 2000. A copy of the international application was communicated from the International Bureau to the USPTO on 25 October 2001. A Demand for International Preliminary Examination, in which the United States was elected, was filed on 12 November 2001, prior to 14 November 2001, the end of the 19-month period from the 14 April 2000 priority date. The period for paying the basic national fee is thus 30 months and ended at midnight on 14 October 2002.

On 15 October 2002, the international application became abandoned as to the United States for non-payment of the basic national fee on or before 15 October 2002, with 14 October 2002 being a Federal holiday.

On 30 October 2002, a petition to revive the international application as to the United States was filed along with, *inter alia*, the $890 basic national fee required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(5), but not an oath or declaration. The petition to revive was granted on 30 May 2003, and the international application as to the United States was revived.

On 5 June 2003, a "Notification of Missing Requirements under 37 CFR 371 in the United States Designated/Elected Office (DO/EO/US)" was mailed, stating that an oath or declaration as required by 35 U.S.C. 371(c)(4) was missing, and setting forth an extendable 2-month period for submitting a proper oath or declaration. The instant request then followed.

DISCUSSION

When an inventor for the claimed invention in a patent application is deceased, the legal representative (executor, administrator, etc.) or one who has reason to believe that he/she will be appointed legal representative may make the necessary oath or declaration. 35 U.S.C. 117; 37 CFR 1.42; MPEP 409.01(a) (Rev. 1, Feb. 2003). In so making the oath or declaration on behalf of the deceased inventor, the legal representative must, in the oath or declaration:

(1) Identify himself/herself as the legal representative of the deceased inventor; 37 CFR 1.497(b)(2); MPEP 605.04(a) (Rev.1 , Feb. 2003);
(2) Provide his/her own citizenship, mailing address and residence; *Id.*; and
(3) Include the citizenship of the deceased inventor. 37 CFR 1.497(a)(3).

The instant request encloses:

-a 3-page declaration (indicated as Page 1 of 2; Page 2 of 2; Page 3 of 2), signed by 7 of the 8 named inventors, leaving blank the signature block of the deceased inventor, Carmelo GANDOLFI; and

-a 1-page "Added Page to Combined Declaration and Power of Attorney for Signing by Administrator(trix), Executor(trix) or Legal Representative on Behalf of Deceased or Incapacitated Inventor (37 CFR 1.42 and 1.43)" bearing the signature of Janete Peloia Barroso Gandolfi as the "legal representative (or heirs) of" Carmelo GANDOLFI; and apparently the signatures of 3 other individuals identified as the heirs of Carmelo GANDOLFI.

However:

(A) If Janete Peloia Barroso Gandolfi is Carmelo GANDOLFI's legal representative, her own citizenship, mailing address, and residence must be, but are not, provided in the 1 page added to the declaration. 37 CFR 1.497(b)(2).

(B) If Janete Peloia Barroso Gandolfi is Carmelo GANDOLFI's legal representative, the signing of the declaration by Carmelo GANDOLFI's heirs in additional to Janete Peloia Barroso Gandolfi is improper, unless all of the 4 individuals who signed the declaration submitted with the instant petition, collectively, are Carmelo GANDOLFI's legal representatives. In that case, the citizenship, mailing address, and residence of each of the 4

individuals must be included in the declaration, wherein each of them is identified as Carmelo GANDOLFI's legal representative. MPEP 409.01(a) (Rev. 1, Feb. 2003).

(C) It is unclear whether all 4 pages of the declaration were provided to Carmelo GANDOLFI's legal representative(s) for signature. MPEP 605.04(a) (Rev. 1, Feb. 2003).

CONCLUSION

In view of the above, the declaration submitted with the request does not fully comply with 37 CFR 1.497. The request is **DISMISSED without prejudice.**

To avoid abandonment of this application, a renewed §1.42 request must be filed within **TWO MONTHS** of the mailing date of this decision, and must include an oath or declaration in compliance with 37 CFR 1.497, as discussed above. The 2-month period is extendable under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to:

Mail Stop PCT
Commissioner for Patents
Office of PCT Legal Administration
PO Box 1450
Alexandria, VA 22313-1450

Richard Cole
PCT Legal Examiner
PCT Legal Office

RC Tang
Petitions Attorney
PCT Legal Office
Telephone: 703-308-1315
Facsimile: 703-308-6459

21 MAY 2004

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

In re Application of	:	
ALLEGRETTI et al.	:	DECISION ON
Application No.: 10/258,959	:	
PCT No.: PCT/EP01/04137	:	PAPERS
Int. Filing Date: 11 April 2001	:	
Priority Date: 14 April 2000	:	UNDER 37 CFR 1.42
Attorney's Docket No.: 3765-0106P	:	
For: AMIDE OF R-2-(AMINOARYL)-PROPIONIC	:	
ACIDS FOR USE IN THE PREVENTION OF	:	
LEUCOCYTE ACTIVATION	:	

This is a decision on the "RENEWED REQUEST UNDER 37 C.F.R. § 1.42" filed by applicants on 30 October 2003 and the "SECOND RENEWED REQUEST UNDER 37 C.F.R. § 1.42" filed via facsimile transmission by applicants on 19 May 2004.

BACKGROUND

On 11 April 2001, applicant filed international application PCT/EP01/04137, which designated the United States and claimed a priority date of 14 April 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 25 October 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 12 November 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 15 October 2002 (14 October 2002 being a Federal holiday).

On 30 October 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee, the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date, and a petition to revive under 37 CFR 1.137(b).

On 30 May 2003, a decision was mailed indicating that the petition to revive was granted.

On 05 June 2003, the United States Patent and Trademark Office (USPTO) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE U.S. DESIGNATED/ELECTED OFFICE (DO/EO/US) (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION set a two-month extendable time period for reply.

On 05 August 2003, applicants filed a "LETTER SUBMITTING ADDITIONAL DOCUMENTS FOR ENTERING NATIONAL PHASE FOR A PCT APPLICATION" indicating that one of the named inventors for the above-identified application is deceased. This submission was treated as a request for status under 37 CFR 1.42, that the legal representative(s) of the deceased inventor be allowed to file the application on behalf of the deceased inventor.

On 22 August 2003, a decision was mailed dismissing the request for status under 37 CFR 1.42 without prejudice.

On 30 October 2003, applicants submitted a "RENEWED REQUEST UNDER 37 C.F.R. § 1.42" which was accompanied by, *inter alia*, a declaration of inventors.

On 19 May 2004, in response to a telephone communication from the undersigned, applicants submitted via facsimile transmission a "SECOND RENEWED REQUEST UNDER 37 C.F.R. § 1.42".

DISCUSSION

The submissions filed 30 October 2003 and 19 May 2004 have been reviewed and have been found in compliance with 37 CFR 1.42. The declaration filed 30 October 2003 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **ACCEPTED**.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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)(1), (c)(2), and (c)(4) date of **30 October 2003**.

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

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MAY 18 2009

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Douglas E. Mackenzie
P.O. Box 1295
Mountain View, CA 94042

In re Application of:
Vito Sgaraglino
Application No. 10/258,965
Filed: October, 28 2002
For: Multiple Response Means For Interactive Advertising and Information Systems

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

This is a decision on the petition filed October 2, 2008 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the finality of the rejection mailed July 31, 2008.

The Applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the Examiner in relation to the Final Office Action July 31, 2008. In the petition, Applicant's counsel cited MPEP 707.07 (f) and alleged that the finality of the office action was improper because the Examiner failed to respond to numerous arguments presented by the applicant.

A review of MPEP 706.07(a) clearly shows that a second action on the merits shall be made final, except for where the examiner introduces a new ground of rejection not necessitated by amendment of the application by applicant. This section of the MPEP further indicates that the applicant is entitled to a full and fair hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal. A review of the file record indicates that a new ground of rejection in the Office Action of July 31, 2008 was necessitated by the new limitations. However, since the final Office Action fails to respond to applicant's arguments for at least claim 106, the finality of the July 31, 2008 Office Action is incomplete and hereby withdrawn. The application will be forwarded to the examiner for consideration of applicant's arguments

Accordingly, the petition is **GRANTED.**

Any inquiry concerning this decision should be directed to Christopher Grant at (571) 272-7294.

Timothy P. Callahan
Director
Technology Center 2400
Networking, Multiplexing, Cable and Security

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/258,965	10/28/2002	Vito Sgaraglino	Click-1	7469

7590 07/09/2010

Douglas E Mackenzie
P O Box 1295
Mountain View, CA 94042

EXAMINER	
ALAM, MUSHFIKH I	

ART UNIT	PAPER NUMBER
2426	

MAIL DATE	DELIVERY MODE
07/09/2010	PAPER

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

The time period for reply, if any, is set in the attached communication.

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

Douglas E Mackenzie
P O Box 1295
Mountain View CA 94042

In re Application of:
Vito Sgaraglino
Application No. 10/258,965
Filed: October 28, 2002
For: MULTIPLE RESPONSE MEANS FOR INTERACTIVE ADVERTISING AND INFORMATION SYSTEMS

DECISION SUA SPONTE WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

This application was held abandoned for failure to timely file a proper reply to the non-final rejection mailed on September 29, 2009. A Notice of Abandonment was mailed on April 05, 2010.

A review of the file record indicates that a Petition for three-Months Extension of time and a response bearing a Certificate of Mailing dated March 29, 2010 met the requirements of 37 CFR 1.18.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the holding of Abandonment is hereby withdrawn.

The application is being forwarded to the Examiner of record for appropriate action.

Christopher Grant
Quality Assurance Specialist
Technology Center 2400
Network, Multiplex, Cable and Security

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PERKINS COIE LLP
PO BOX 1208
SEATTLE, WA 98101

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MAR 06 2009

OFFICE OF PETITIONS

In re Application of :
Charles B. Hensley, et. al. :
Application No. 10/258,978 : DECISION ON PETITION
Filed: April 11, 2003 : TO WITHDRAW
Attorney Docket No. 099425-0059/8467 : 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, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to PERKINS COIE LLP has been revoked by the assignee of the patent application on June 28, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Michael Wise
Perkins Coie
Sixth Floor
1620-26TH Street
Santa Monica CA 90404-4013

30 SEP 2004
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#7

Norris, McLaughlin & Marcus, P.A.
220 E. 42nd Street, 30th Floor
New York, NY 10017

In re Application of	:	
Ellner et al.	:	
Application No.: 10/258,986	:	
PCT No.: PCT/EP01/04897	:	
Int. Filing Date: 02 May 2001	:	DECISION
Priority Date: 04 May 2000	:	
Attorney Docket No.: 101215-112	:	
For: Method And Device For The Mechanical - Thermal Separation Of Different Materials	:	

This application is before the PCT Legal Office for consideration of issues arising under 35 U.S.C. 371.

BACKGROUND

This international application was filed on 02 May 2001 and claimed a priority date of 04 May 2000. The International Bureau transmitted a copy of the published international application to the USPTO on 08 November 2001. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 04 November 2002. On 30 October 2002, applicants filed *inter alia* the basic national fee.

DISCUSSION

Review of the application file reveals that the published international application included a sheet (page 11) which appeared to be an index of drawing reference numbers in the German language. However, the English translation of the international application, filed on 03 February 2004, does not include a translation of this page. Therefore, the translation is defective. As such, the requirements of 35 U.S.C. 371(c)(2) have not been satisfied. Accordingly, the Communication mailed on 20 August 2004 is **VACATED** to the extent that it erroneously stated that the requirements of 35 U.S.C. 371(c)(1), (2) and (4) had been satisfied.

CONCLUSION

The translation filed on 03 February 2004 is defective.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the filing of an English translation of the international application.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

15 JAN 2003

#4

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John S. Pratt
KILPATRICK STOCKTON LLP
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309

In re Application of
ANIKITCHEV, Serguie *et al*
U.S. Application No.: 10/2[illegible],995
PCT No.: PCT/US01/12613
Int. Filing Date: 18 April 2001
Priority Date: 18 April 2000
Attorney Docket No.: I0002/257442
For: METHODS AND SYSTEMS FOR LOW LOSS SEPARATION AND COMBINATION

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicants' "Petition under 37 C.F.R. 1.137(b) for Revival of an Unintentionally Abandoned International Application Designating the U.S." filed with the national stage papers on 31 October 2002 in the above-captioned application is hereby **GRANTED** as follows:

The appropriate basic national fee, extra claim fee and petition to revive fee have been paid. Applicants state that "[t]he 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" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required in this case. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

However, the declaration submitted in the international application pursuant to PCT Rule 4.17(iv) and 51bis.1(a)(4) and again with the national stage papers on 31 October 2002 is not in compliance with 37 CFR 1.497(a)(3) in that it does not properly identify each inventor.

The declaration contains two first pages and one second page. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. In the declaration, all of the inventors are not listed together and there are no page numbers.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee pursuant to 37 CFR 1.492(e) is required.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

03 JUN 2003

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#7

John S. Pratt
KILPATRICK STOCKTON LLP
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309

In re Application of :
ANIKITCHEV, Serguie G. *et al* :
U.S. Application No.: 10/258,995 :
PCT No.: PCT/US01/12613 :
Int. Filing Date: 18 April 2001 :
Priority Date: 18 April 2000 :
Attorney Docket No.: I0002/257442 :
For: METHODS AND SYSTEMS FOR LOW LOSS SEPARATION AND COMBINATION :

DECISION ON PETITION UNDER 37 CFR 1.47(b)

This is a decision on applicants' "Petition under 37 CFR 1.47(a)" filed on 21 March 2003.

BACKGROUND

On 21 January 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath/declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee of $130.00 pursuant to 37 CFR 1.492(e) must be provided. Applicants were given two months to respond.

On 21 March 2003, applicants submitted the instant petition which was accompanied by, *inter alia*, the $130.00 petition fee; the $130.00 surcharge fee; a declaration executed by Steven Read and Graham H. Moss; a declaration of Barbara Romano ("Decl."); a copy of two letters from IMAX Corporation to the nonsigning joint inventor dated 14 February 2003; and copies of two Federal Express receipts.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor cannot be found or reached after diligent effort; (3) a statement of the last known address of the missing joint inventor; (4) and an oath or declaration executed by the signing joint inventor on his behalf and on behalf of the non-signing joint inventor.

The $130.00 petition fee has been paid satisfying item (1) of 37 CFR 1.47(a). However, applicants have not met the requirements of items (2), (3) and (4).

Applicants submitted a declaration by Legal Assistant, Barbara Romano who stated that she "made two attempts to obtain Mr. Serguei G. Anikitchev's signature . . . and I have made further efforts to locate his current address." Decl. at ¶ 3. Ms. Romano asserts that she found two possible addresses for the nonsigning inventor and sent letters instructing Mr. Anikitchev to sign the enclosed declaration. Id. The 37 CFR 1.47(a) applicant included a copy of the cover letters dated 14 February 2003 and Federal Express receipts for the mailings.

Applicants' burden in proving that an inventor cannot be located pursuant to item (2) is explained in section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) which states, in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, 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 . . .
>
> 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. Copies of documentary evidence such as **internet searches**, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. (Emphasis added).

In this case, Ms. Romano states that she attempted to locate the nonsigning inventor through internet searches which resulted in two possible addresses for Mr. Anikitchev. However, the MPEP requires that documentary evidence of this search should be made of record. An explanation of the parameters of the search used should also be provided. For this reason, item (2) of 37 CFR 1.47(a) is not yet satisfied.

It is also noted that if the nonsigning inventor is located and a subsequent refusal to join is alleged, he must be presented with a complete copy of the application, including specification, claims and drawings, not merely an assignment and declaration. *See* MPEP § 409.03(d), *Refusal to Join*.

With regard to item (3), the 37 CFR 1.47(a) applicant states that the last known address of the nonsigning co-inventor, Serguei G. Anikitchev is:

4425 North First Avenue
Apartment 518
Tucson, Arizona 85719

However, a review of the international application, PCT/US01/12613, reveals

that a Notification of the Recording of a Change (Form PCT/IB/306) concerning a change of address for Mr. Anikitchev was part of the record. The address for Mr. Anikitchev was now listed as:

9095N Oracle Road #3101
Oro Valley, AR 85737

This is also the address listed on the declaration provided with the instant petition. Applicants must investigate this matter to ensure that the last known address of the nonsigning inventor is his last address. Thus, item (3) is also not satisfied.

Regarding item (4), applicants included a Declaration signed by two of the three listed joint inventors, Steven Read and Graham H. Moss. The nonsigning co-inventor's name, residence, post office address and citizenship are typed on the declaration. However, applicants submitted what appeared to be one declaration and a portion of another declaration. There are one Pages 1 and 2 and two Page 3's. Applicants must submit the complete declaration signed by each co-inventor. For this reason, item (4) is also not satisfied.

Thus, all of the requirements of 37 CFR 1.47(a) are not yet complete.

CONCLUSION

For the reasons discussed above, the petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

04 SEP 200

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#9

John S. Pratt
KILPATRICK STOCKTON LLP
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309

In re Application of :
ANIKITCHEV, Serguei G. *et al* :
U.S. Application No.: 10/258,995 :
PCT No.: PCT/US01/12613 :
Int. Filing Date: 18 April 2001 :
Priority Date: 18 April 2000 :
Attorney Docket No.: I0002/257442 :
For: METHODS AND SYSTEMS FOR LOW :
LOSS SEPARATION AND :
COMBINATION :

DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Request for Reconsideration and Renewed Petition under 37 C.F.R. 1.47(a)" filed on 17 July 2003.

BACKGROUND

On 03 June 2003, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants failed to satisfy items (2), (3) and (4) of 37 CFR 1.47(a). Applicants were given two months to respond with extensions of time available.

On 17 July 2003, applicants filed the instant petition which was accompanied by, *inter alia*, a "Declaration of Barbara Romano" ("2d.Decl.") and copies of various searches for the nonsigning co-inventor, Mr. Serguei G. Anikitchev.

DISCUSSION

The 37 CFR 1.47(a) applicant failed to satisfy items (2), (3) and (4) of 37 CFR 1.47(a) with the papers filed 21 March 2003.

Concerning item (2), the 37 CFR 1.47(a) applicant failed to provide the documentary evidence required to show that a diligent effort was made to locate the nonsigning co-inventor.

In the renewed petition, the 37 CFR 1.47(a) applicant submitted another "Declaration of Barbara Romano" who adds to her prior affidavit by asserting that she "attempted to obtain a telephone number for Serguei Anikitchev" on 12 June 2003 via directory assistance and also "attempted to locate an address for Serguei Anikitchev via Internet searches." 2d.Decl. at ¶¶ 4-5. However, Ms. Romano declared that she was unable to locate the nonsigning co-inventor with any of these searches. Id.

Petitioner included copies of the telephone and internet searches for Mr. Anikitchev with the renewed petition as requested. This evidence is sufficient to show that a diligent effort was made to locate the nonsigning co-inventor and meets the requirements of section 409.03(d) of the MPEP. Thus, item (2) of 37 CFR 1.47(a) is now satisfied.

Concerning item (3), the 37 CFR 1.47(a) applicant satisfies this requirement by listing the last known address for Serguei G. Anikitchev as:

9095 N. Oracle Road #3101
Oro Valley, AR 85737

Regarding item (4), applicants included a complete Declaration signed by two of the three co-inventors. All the inventors' names, residences, post office addresses and citizenship are typed on the declaration. This declaration satisfies the requirements of section 409.03(a) of the MPEP and is in compliance with 37 CFR 1.497(a) and (b). Hence, item (4) has been satisfied.

Therefore, all the requirements of 37 CFR 1.47(a) are now complete.

CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 18 April 2001 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 17 July 2003.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record and will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

04 SEP 2003

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Serguei G. Anikitchev
9095 N. Oracle Road #3101
Oro Valley, AR 85737

In re Application of
ANIKITCHEV, Serguie G. *et al*
U.S. Application No.: 10/258,995
PCT No.: PCT/US01/12613
Int. Filing Date: 18 April 2001
Priority Date: 18 April 2000
Attorney Docket No.: I0002/257442
For: METHODS AND SYSTEMS FOR LOW LOSS SEPARATION AND COMBINATION

Dear Mr. Anikitchev:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an 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 to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

James Thomson

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

John S. Pratt
KILPATRICK STOCKTON LLP
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309

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#5

Frishauf, Holtz, Goodman & Chick, P.C.
767 Third Avenue - 25th Floor
New York, NY 10017-2023

In re Application of
Woodward, Gary, et al.
Application No.: 10/259,000
PCT No.: PCT/GB01/01939
Int. Filing Date: 03 May 2001
Priority Date: 05 May 2000
Attorney Docket No.: 02626/HG
For: SCALE AND CORROSION INHIBITORS

DECISION ON

PETITION

UNDER 37 CFR 1.181

This decision is in response to "Response to Notification of Missing Requirements," filed on 11 February 2003. No petition fee is due.

BACKGROUND

On 03 May 2001, applicants filed international application PCT/GB01/01939. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 15 November 2001. A demand for international preliminary examination was timely filed on 09 November 2001. The deadline for entry into the national stage in the United States was thirty months from the priority date, or 05 November 2002.

On 31 October 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.

On 30 December 2002, applicants filed an assignment and a declaration.

On 27 January 2003, the Office mailed NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 11 February 2003, applicants filed the instant petition accompanied by a copy of the paperwork filed 30 December 2002 and a copy of a postcard receipt.

DISCUSSION

The 30 December 2002 paperwork has been matched with the file. As such, the request to accept the copies of the paperwork as having been received on 30 December 2002 is moot.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED AS MOOT**.

The NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) mailed 23 January 2003 is **VACATED**

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt. The 35 U.S.C. §371(c) date is 30 December 2002.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

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OFFICE OF PETITIONS

WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

In re Application of :
Rolf Stephan et al :
Application No. 10/259,016 : ON PETITION
Filed: September 27, 2002 :
Attorney Docket No. 2000.093800 :

This is a decision on the petition, filed May 5, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on July 28, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2814 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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WILLIAMS, MORGAN & AMERSON, P.C.
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

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OFFICE OF PETITIONS

In re Application of
Werner et al.
Application No. 10/259,037
Filed: September 27, 2002
Attorney Docket No. 2000.090900

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 28, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the restriction requirement mailed December 30, 2003, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the above-identified application became abandoned on January 31, 2004. A Notice of Abandonment was mailed on January 14, 2005.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $2160.00 extension of time fee submitted with the petition on January 28, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

This matter is being referred to Technology Center 2800 for further examination on the merits.

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

Liana Chase
Petitions Examiner
Office of Petitions
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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FEB 16 2006

OFFICE OF PETITIONS

SUSAN M. DONAHUE
ROCKWELL AUTOMATION, INC.
1201 SOUTH SECOND STREET
MILWAUKEE, WI 53204

In re Application of :
David W. Farchmin, et al. :
Application No. 10/259,089 : ON PETITION
Filed: September 27, 2002 :
Attorney Docket No. 110003.98059.02AB187 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 10, 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 January 5, 2006, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated January 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]

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

---

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

The application is being referred to Technology Center AU 2683 for further processing of the request for continued examination under 37 CFR 1.114 filed February10, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MICHAEL A. JASKOLSKI
QUARLES & BRADY
411 E. WISCONSIN AVENUE, SUITE 2040
MILWAUKEE, WI 53202-4497

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of	:	
David et al.	:	DECISION
Application No.: 10/259,093	:	
Filing Date: September 27, 2002	:	ON PETITION UNDER
Docket No.: PPC-850	:	
For: Disposable Articles Having	:	37 CFR 1.137(b)
A Failure Detection System	:	

This is a decision on Petition Under 37 CFR 1.137(b), filed on August 2, 2006.

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 February 22, 2005, which set a shortened statutory period for reply of three (3) months. The application went abandoned at midnight on August 22, 2005. A Notice of Abandonment was mailed on September 29, 2005.

Petitioner has met the requirements for revival under §1.137(b). Petitioner submitted the required reply in the form of an amendment, paid the petition fee and made the statement that "the entire delay in filing the required reply from the due date until the filing of this petition was unintentional." This is being construed as a statement that "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." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. 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 3761 for continued processing.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
on behalf of
Office of Petitions
Telephone: 571-272-3283
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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STEVEN HOROWITZ
COUNSELOR AT LAW
295 MADISON AVENUE SUITE 700
NEW YORK NY 10017

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JUN 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Elsa Dunplet	:	
Application No. 10/259,104	:	ON PETITION
Filed: September 26, 2002	:	
Reissue Patent of: 6,123,238	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed April 18, 2007.

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

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed November 26, 2006. This Notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on February 27, 2007. A Notice of Abandonment was mailed on April 4, 2007.

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BRIAN J. LAURENZO
DORSEY & WHITNEY LLP
801 GRAND AVENUE
DES MOINES, IA 50309

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MAR 15 2006
OFFICE OF PETITIONS

In re Application of	:	
Geoffery H. Dreyer et al	:	
Application No. 10/259,116	:	DECISION ON PETITION
Filed: September 27, 2002	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 435565-280	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed February 9, 2004, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **DISMISSED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

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

The instant petition fails to meet the requirement set forth above for special status because it lack item (A). There must be an actual infringement with a device or product actually on the market or method in use. The petition does not state that there is an infringing device or product actually on the market or method in use.

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

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

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

By FAX: (571) 273-8300

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

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

The application is being forwarded to the Technology Center Art Unit 3627 for action in its regular turn.

Amelia Au
Petitions Examiner
Office of Petitions

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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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Harry I. Leon
924 Bowen St., N.W.
Atlanta, GA 30318

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MAR 0 3 2006

OFFICE OF PETITIONS

In re Application of
Wischusen
Application No. 10/259,123
Filed: September 27, 2002
For: ROLLER FOR BALANCING DEVICES

: DECISION ON PETITION

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed May 10, 2005.

The petition is hereby **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 1.181." This is not a final agency decision.

This application became abandoned October 28, 2004 for failure to timely submit a proper reply to the non-final Office action mailed July 27, 2004. The non-final Office action set a three month shortened statutory period of time for reply. No petition for extension of time was timely requested. Notice of Abandonment was mailed April 25, 2005.

Petitioner indicates that a telephone interview occurred on August 19, 2004. Petitioner further indicates that he attempted to reach the Examiner of record via telephone several times to no avail. Petitioner indicates that a reply to the non-final Office action was faxed to the Examiner on October 1, 2004. Petitioner indicates that a copy of the reply was also mailed to the Office on October 3, 2004.

A review of the application file reveals that a facsimile was received October 1, 2004. The submission, however, is a "Revised Draft Amendment" and did not comply with the requirements of 37 CFR 1.121.

Accordingly, no proper reply to the non-final Office action was timely submitted.

ALTERNATE VENUE

Petitioners may wish to consider filing a petition stating that the delay in timely submitting a properly reply to the Notice was unintentional or unavoidable pursuant to 37 CFR 1.137(b) and (a) respectively. *See* MPEP 711.03(c).

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

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Harry I. Leon
924 Bowen St., N.W.
Atlanta, GA 30318

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JUN 0 1 2006
OFFICE OF PETITIONS

In re Application of :
Wischusen : DECISION ON PETITION
Application No. 10/259,123 :
Filed: September 27, 2002 :
For: ROLLER FOR BALANCING DEVICES :
:

This decision is in response to the petition renewed under 37 CFR 1.137(b), filed May 2, 2006.

The petition is hereby **GRANTED**.

This application became abandoned October 28, 2004 for failure to timely submit a proper reply to the non-final Office action mailed July 27, 2004. The non-final Office action set a three month shortened statutory period of time for reply. No petition for extension of time was timely requested. Notice of Abandonment was mailed April 25, 2005. A petition under 37 CFR 1.181 was filed May 10, 2005 and dismissed March 3, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

This application is being forwarded to Technology Center 1700 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

AUDLEY A. CIAMPORCERO JR.
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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MAR 0 4 2003

OFFICE OF PETITIONS

In re Application of :
Heintzelman, et al. :
Application No. 10/259,139 : ON PETITION
Filed: September 27, 2002 :
Attorney Docket No. ORT-1662 :
For: ARYLINDENOPYRIDINES AND RELATED :
THERAPEUTIC AND PROPHYLACTIC METHODS

This is a decision on the petition under 37 CFR 1.53(e), filed January 16, 2003, requesting, in effect, withdrawal of the Notice to File Missing Parts of Nonprovisional Application, mailed November 19, 2002, insofar as it alleges that page 88 of the specification was omitted upon filing.

The petition under 37 CFR 1.53(e) is **GRANTED**.

The application was filed on September 27, 2002. On November 19, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that page 88 of the specification appeared to have been omitted.

In response to the Notice, petitioners filed the present petition. Petitioners page 88 be accorded a filing date of September 17, 2002 on the basis that 102 pages of specification, including page 88, were received in the Patent and Trademark Office (PTO) on September 27, 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 27, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 102 pages of specification. A review of the application file reveals that there are 101 pages present. Page 88 is missing.

The return postcard constitutes *prima facie* evidence that the entire specification, including missing page 88, was filed on September 27, 2002. MPEP 503.

Pursuant to petitioners' authorization, deposit account no. 10-0750 will be credited the $130.00 petition fee.

After the mailing of this decision, the application file will be returned to the Office of Initial Patent Examination for further processing with a filing date of **September 27, 2002**, using the substitute specification, filed January 21, 2003 (certificate of mailing date January 17, 2003). Petitioners are reminded that an executed oath/declaration is still due.

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 AND TRADEMARK OFFICE

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

PERMAN & GREEN
425 POST ROAD
FAIRFIELD CT 06824

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FEB 19 2009

OFFICE OF PETITIONS

In re Application of
Jong Soon Kim et al
Application No. 10/259,145
Filed: September 27, 2002
Attorney Docket No. 849-011052-US
(PAR)

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 9, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed March 5, 2008.

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

An inquiry from the examiner on February 11, 2009, stated that the reply received December 9, 2008, is **not** proper.

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

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

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

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

PERMAN & GREEN
425 POST ROAD
FAIRFIELD CT 06824

In re Application of :
Jong Soon Kim et al :
Application No. 10/259,145 : DECISION ON PETITION
Filed: September 27, 2002 :
Attorney Docket No. 849-011052-US (PAR) :

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement mailed March 5, 2008, is accepted as having been unintentionally delayed.

On page nine (9) of the remarks submitted in the reply on April 20, 2009, selected has been construed as elected. Petitioner should notify the USPTO if this is an incorrect interpretation.

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

This application is being referred to Technology Center AU 2621 for appropriate action by the Examiner in the normal course of business on the reply received April 20, 2009.

Karen Creasy
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**

BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY CA 94704-0778

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FEB 1 0 2003

OFFICE OF PETITIONS

In re Application of
Jeffrey L. Robbin et al
Application No. 10/259,159
Filed: September 26, 2002
Attorney Docket No. APL1P236/P2760

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.137(f)

This is a decision on the petition, filed December 30, 2002, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country "on or about October 22, 2002." However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

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

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by

35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of May 22, 2003 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 2675 for examination in due course.

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

REINHART BOERNER VAN DEUREN P.C.
2215 PERRYGREEN WAY
ROCKFORD IL 61107

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FEB 28 2008

OFFICE OF PETITIONS

In re Application of
Jeffrey A. Gendron et. al
Application No. 10/259,161
Filed: September 27, 2002
Attorney Docket No. 50616-CIP

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed December 12, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed June 8, 2007. A response was filed November 7, 2007 with a two month extension of time request. The instant petition preceded the mailing of the Notice of Abandonment and was filed on even date with an Advisory Action mailed to advise the applicant that the response filed November 7, 2007 did not place the application in condition for allowance.

Petitioner has submitted a Request for Continued Examination (RCE) and request that the amendment filed November 7, 2007 be considered as the submission required under 37 CFR 1.114.

The record reveals that a three month extension of time was also 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.

---

[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)).

Accordingly, since the $295.00 extension of time fee submitted with the petition on December 12, 2007, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 50-3505.

This matter is being referred to Technology Center 3652 for processing of the RCE.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOV -8 2004

In re Application of	:	
Christopher E. Davis	:	
Serial No. 10/259,178	:	WITHDRAWAL FROM
Filed: September 26, 2002	:	ISSUE
For: METHOD AND SYSTEM FOR REMOTELY MANAGING VEHICLE MILEAGE	:	

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

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

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

The application is being forwarded to the examiner for prompt action.

E. Rollins-Cross, Director
Technology Center 3700

Baker and Botts, LLP
2001 Ross Avenue, Suite 600
Dallas, TX 75201-2980

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/259205

DATE : 8/24/05

Paper No.: ____

TO SPE OF : ART UNIT 3632

SUBJECT : Request for Certificate of Correction on Patent No.: 6793186 B2

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

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

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 113

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

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

Comments:

Denied due to correction reflects application information.
A correction should only be directed to patent information.

Carl D. Friedman
Supervisory Patent Examiner
Group 3600

SPE

3632
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

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FEB 05 2007

OFFICE OF PETITIONS

In re Application of :
Schmidt, et al. : DECISION ON PETITION
Application No. 10/259,220 :
Filed: September 26, 2002 :
Atty. Dkt. No.: 1604-418 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 24, 2006, 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 December 13, 2005. The final Office action set a three (3) month shortened statutory period of time for reply. Notice of Abandonment was mailed July 27, 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(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.

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 application file is being forwarded to Technology Center 1700 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

CC: SINDER,FREDRIC
Dept Of The Air Force
2240 B Street Afmclo /jaz Bldg 11 Room 100
Wright-Patterson Afb, OH 45433

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN, VA 22102

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MAY 18 2007

OFFICE OF PETITIONS

In re Application of :
Mark A. KAY, et al :
Application No. 10/259,226 : DECISION ON PETITION
Filed: September 27, 2002 : TO WITHDRAW
Attorney Docket No. LEYL/0003.P1 : 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 22, 2007.

The request is **NOT APPROVED**.

The Office cannot approve the request at this time since the reason provided does not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "a practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office." More specifically, 37 CFR 10.40 states, "if paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, transferred to another firm, does not meet any of the conditions set forth in 37 CFR 10.40.

There is an outstanding Office action mailed February 28, 2007 that requires a reply by the applicant.

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

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: JUDY MOHR, PERKINS COLE LLP
101 JEFFERSON DRIVE
MENLO PARK, CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DW 01-03

Paper No. 4

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60611

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JAN 31 2003

OFFICE OF PETITIONS

In re Application of
Koyo Hasegawa
Application No. 10/259,230
Filed: 27 September, 2002
Atty's Docket No. 9333-312

: DECISION GRANTING PETITION

This is a decision on the petition filed on 31 December, 2002, requesting that the above-identified application, including Figure 12 described in the specification, be accorded a filing date of 31 December, 2002.

On 27 September, 2002, the application was filed.

On 4 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 27 September, 2002, but that, *inter alia*, Figure 12 described in the specification appeared to have been omitted.

In response, on 31 December, 2002, one (1) sheet of drawings containing Figure 12 and the present petition were submitted. Petitioners assert that one (1) sheet of drawings containing Figure 12 was filed with the other application papers on 27 September, 2002, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 09/27/02, and the above-identified application number. The postcard receipt also identifies the application by attorney docket number, and inventor's name, and acknowledges receipt, *inter alia*, of 12 sheets of drawings. Petitioners request that the application, including the one (1) sheet of drawings containing Figure 12 be accorded a filing date of 27 September, 2002.

Upon further review, 11 sheets of drawings containing Figures 1, 2A-C, 3, 4, 5A-D, 6-9, 10A-B, and 11A-B have been located in the file. However, the evidence is convincing that the application papers deposited on 27 September, 2002, included one (1) sheet of drawing containing Figure 12 as described in the specification, which was subsequently misplaced in the Office. Therefore, the application, including the one (1) sheet of drawing containing Figure 12 as described in the specification, is entitled to a filing date of 27 September, 2002.

Accordingly, the Notice to File Missing Parts of Nonprovisional Application mailed on 27 September, 2002, is hereby vacated to the extent that it stated that Figure 12 described in the specification appeared to have been omitted.

In view of the above, the petition is granted. The petition fee of $130.00 will be credited to counsel's deposit account, No. 23-1925 as authorized in the transmittal sheet accompanying the present petition.

The application will be processed and examined using the application papers filed on 27 September, 2002, and the one (1) sheet of drawing containing Figure 12 supplied on 31 December, 2002.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 27 September, 2002, using the application papers filed that date, and the one (1) sheet of drawings containing Figure 12 supplied on 31 December, 2002, and for an indication on the bib-data sheet that 12 sheets of drawings were present on filing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

DALY, CROWLEY & MOFFORD, LLP
SUITE 101
275 TURNPIKE STREET
CANTON, MA 02021-2310

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JUN 0 3 2003

OFFICE OF PETITIONS

In re Application of	:
Charles F. Maurer III et al	: DECISION DISMISSING
Application No. 10/259,237	: PETITION UNDER
Filed: September 27, 2002	: 37 CFR 1.137(f)
Attorney Docket No. 17472 USA	:

This is a decision on the petition, filed May 12, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **DISMISSED** as moot.

Petitioner states that a request that the above-identified application not be published under 35 U.S.C. 122(b) was included with the above-identified application on filing. However, after careful review of the file records, there is no evidence that a request under 35 U.S.C. 122(b)(2)(B)(i) was ever filed.

In view of the above, the petition is dismissed as moot and the notice of "Rescission Of Previous Nonpublication Request" filed May 12, 2003 is unnecessry.

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

This application is being forwarded to Technology Center Art Unit 2143 for examination in due coure.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MYERS DAWES ANDRAS & SHERMAN, LLP
19900 MACARTHUR BLVD.,
SUITE 1150
IRVINE CA 92612

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JUN 22 2006
OFFICE OF PETITIONS

In re Application of :
Huang :
Application No. 10/259,242 : ON PETITION
Filed: September 27, 2002 :
Attorney Docket No. 12741-0007/NEC :
For: MULTI-FUNCTIONAL PAPER AND
A METHOD MAKING THE SAME

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

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

This application became abandoned for failure to timely reply to the Restriction Requirement, mailed March 6, 2005, which set a one month shortened statutory period for reply. No proper extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on April 7, 2005. No Notice of Abandonment has been mailed.

Applicant has submitted a proper reply to the Restriction Requirement in the form of an election, an acceptable statement of the unintentional nature of the delay in responding to the Restriction Requirement, and the petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

Regarding finances, the current small entity Rule 137(b) petition fee is $750.00. Petitioner paid only $700.00. Deposit account no. 01-1960 will be charged the $50.00 balance due.

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 $1080.00 extension of time submitted with the petition was submitted subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The power of attorney documents submitted on November 18, 2005 have been entered and made of record. Please find enclosed notices pertaining to the changes requested.

After the mailing of this decision, the file will be returned to Technology Center AU 1731 for consideration of the election filed on November 18, 2005.

Telephone inquiries concerning this matter 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
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MYERS DAWES ANDRAS & SHERMAN
19900 MACARTHUR BLVD SUITE 1150
IRVINE CA 92612

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OFFICE OF PETITIONS

In re Application of	:	
Shih-Pan-Yu Hsieh et al	:	
Application No. 10/259,243	:	DECISION GRANTING PETITION
Filed: September 27, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. DEP1.PAU.06	:	

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of December 15, 2004, is accepted as having been unintentionally delayed.

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 extension of time submitted with the petition on June 26, 2006 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This matter is being referred to Technology Center AU 3643.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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MYERS DAWES ANDRAS & SHERMAN LLP
19900 MACARTHUR BLVD SUITE 1150
IRVINE CA 92612

In re Application of	:	
Shih-Pan-Yu Hsieh et al	:	
Application No. 10/259,243	:	DECISION ON PETITION
Filed: September 27, 2002	:	
Attorney Docket No. DEP1.PAU.06	:	

This is a decision on the petition filed June 26, 2006, which is being treated as a petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of prior-filed PCT Application No. PCT/CN00/00072 filed March 31, 2000.

The petition is **DISMISSED**.

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

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

The petition fails to satisfy item (1) above. In this regard, no amendment or ADS was submitted to include the reference to the prior-filed PCT application.

Accordingly, a proper amendment complying with the provisions of 37 CFR 1.121 and satisfying the requirements of 37 CFR 1.78(a)(2)(i) must be submitted, along with a renewed petition under 37 CFR 1.78(a)(3).

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

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

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

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

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

Karen Creasy
Petitions Examiner
Office of Petitions

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JAN 29 2007

OFFICE OF PETITIONS

In re Application of :
Shih-Pan-Yu Hsieh et al :
Application No. 10/259,243 : DECISION ON PETITION
Filed: September 27, 2002 :
Attorney Docket No. DEP1.PAU.06 :

This is a decision on the renewed petition filed December 19, 2006, which is being treated as a petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of prior-filed PCT Application No. PCT/CN00/00072 filed March 31, 2000.

The petition is again **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.

The petition fails to satisfy item (1) above. In this regard, the ADS submitted with the instant petition included the reference the prior-filed PCT application in the Foreign Priority data instead of in the Domestic Priority data on the ADS.

Accordingly, a proper amendment complying with the provisions of 37 CFR 1.121 and satisfying the requirements of 37 CFR 1.78(a)(2)(i) or ADS must be submitted, along with a renewed petition under 37 CFR 1.78(a)(3).

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

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Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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JUN 15 2007

OFFICE OF PETITIONS

JOHN W.ELDREDGE ESQ.
MYERS DAWES ANDRAS & SHERMAN LLP
19900 MACARTHUR BLVD SUITE 1150
IRVINE CA 92612

In re Application of :
Shih-Pan-Yu Hsieh et al :
Application No. 10/259,243 : DECISION ON PETITION
Filed: September 27, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. DEPI.PAU.06 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed February 12, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § §120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/CN00/00072 filed March 31, 2000.

The petition is **DISMISSED.**

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

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

The petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of

the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The ADS fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), which states the relationship of the prior-filed application to this application, is required.

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

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Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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IRVINE, CA 92612

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JAN 15 2008

OFFICE OF PETITIONS

In re Application of :
Shih-Pan-Yu Hsieh et al :
Application No. 10/259,243 : DECISION ON PETITION
Filed: September 27, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. DEP1.PAU.06 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed June 25, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/CN00/00072, filed March 31, 2000, as set forth in the accompanying amendment.

The petition is **GRANTED.**

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

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

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§ 120 and 365(c) is accepted as being unintentionally delayed.

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

the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed 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.

This application is being forwarded to the examiner of Technology Center Art Unit 3643 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
10/259,243	09/27/2002	3643	870	DEP1.PAU.06	20	2

CONFIRMATION NO. 7748

CORRECTED FILING RECEIPT

John W Eldredge Esq
Myers Dawes Andras & Sherman LLP
19900 MacArthur Blvd Suite 1150
Irvine, CA 92612

Date Mailed: 01/15/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please 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)

Shih-Pan-Yu Hsieh, Taichung, TAIWAN;
Rui-Zhi Huang, Taoyuan, TAIWAN;

Power of Attorney:

Richard Myers--26490
Daniel Dawes--27123
David Henty--31323
Joseph Andras--33469
Kenneth Sherman--33783
Vic Lin--43754
Timothy Fitzwilliam--46439

Domestic Priority data as claimed by applicant

This application is a CON of PCT/CN00/00072 03/31/2000

Foreign Applications

If Required, Foreign Filing License Granted: 10/31/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/259,243**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method for preventing plant disease

Preliminary Class

047

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Mailed: DEC 17 2004

BC
Paper Number _____

In re application of :
John Papadakos :
Serial No. 10/259,262 : DECISION ON
Filed: September 27, 2002 : PETITION
For: MIXTURE OF VOLCANIC SOIL FROM THIRA ISLAND :
AND SOAP, USE OF CLEANSING AND COSMETIC FOR :
HANDS AND NAILS, AND METHOD OF PREPARATION :

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a), filed January 8, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed on December 30, 3003, for failure to timely file a proper reply to the Office letter mailed June 17, 2003 be withdrawn since applicants did timely file a reply December 16, 2003 as indicated in the Express Mail Label and attested to by Mr. Meyers, the attorney who signed the certificate of mailing, and Ms. Bernstein, docket clerk at the Firm of Karl F. Ross, PC. A copy of the reply, an information disclosure statement and fee authorization sheet is attached to the instant petition.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's reply was properly filed on December 16, 2003 as evidenced by the Express Mail Label and supported by both the statement by Mr. Meyers and the Declaration by Ms. Bernstein. Accordingly, any holding of abandonment for failure to timely file a proper reply to the Office letter mailed June 17, 2004 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the examiner for entry, processing and consideration of the reply originally filed on December 16, 2003 as indicated by applicant.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Jonathan Meyers
The Firm of Karl F. Ross, PC
5676 Riverdale Avenue
P.O. Box 900
Riverdale, NY 10471-0900

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DIW Aug-06

ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

COPY MAILED

AUG 0 7 2006

OFFICE OF PETITIONS

In re Application of :
Barbara L. Isenberg :
Application No. 10/259,281 : ON PETITION
Filed: 27 September, 2002 :
Atty Docket 03321-P0002B :

This is a decision in reference to the petition filed under 37 CFR 1.181 on 30 June, 2006, to withdraw the holding of abandonment.

This application became abandoned on 1 September, 2005, for failure to timely reply to the non-final Office action mailed on 31 May, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply were obtained in accordance with 37 CFR 1.136(a). Notice of Abandonment was mailed on 1 May, 2006.

Petitioner states that the Office action mailed on 31 May, 2005 "did not address all pending claims in the [a]pplication" and that petitioner was informed by the examiner that a new Office action would be mailed. Petitioners further assert that "[a]s there was no correct Office Action received by the Applicant, per the Examiner's and Supervisory Examiner's assurances, the application has not in fact been abandoned for failure [of] the Applicant to respond."

Petitioner's argument has been carefully considered, but is not persuasive.

In this regard, 37 CFR 1.135 states:

> (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 Office action mailed on 31 May, 2005, set a three (3) month shortened statutory period for reply. Petitioner, however, concededly failed to respond to the Office action. As such, the application became abandoned for failure to timely respond to the outstanding Office action.

Further, petitioner's assertion that the non-final Office action was incorrect or invalid is not supported by the showing of record. In this regard, the official file constitutes the showing of record. A review of the file reveals that the Office action mailed on 31 May, 2005, was not withdrawn or vacated. In the absence of evidence on the record that the subject Office action was withdrawn or vacated, petitioner's argument that no reply was required to the Office action mailed on 31 May, 2005, is not persuasive.

Lastly, with regard to petitioner's assertion that the examiner had agreed that a new Office action would be mailed, there is no showing in the written record to support that allegation. As MPEP 711.03(c) states, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

37 CFR 1.2 states that 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.

As such, the showing of record is that the abandonment resulted from the failure of petitioners to respond to the Office action, rather than an error on the part of the USPTO.

As such the application is properly held abandoned.

The petition is **DISMISSED.**

Petitioner is advised to consider filing a petition to revive under 37 C.F.R. 1.137(b).

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision.

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

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

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

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

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

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 Nov-06

ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

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DEC 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Barbara L. Isenberg :
Application No. 10/259,281 : ON PETITION
Filed: 27 September, 2002 :
Atty Docket 03321-P0002B :

This is a decision on the petition filed on 2 October, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 1 September, 2005, for failure to timely reply to the non-final Office action mailed on 31 May, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply were obtained in accordance with 37 CFR 1.136(a). Notice of Abandonment was mailed on 1 May, 2006. The petition to withdraw the holding of abandonment filed on 30 June, 2006, was dismissed on 7 August, 2006.

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

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

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

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

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

Petitioner has submitted an amendment to the specification and the claims as the required reply.

The application is being referred to Technology Center Art Unit 3711 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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JUL 18 2006

OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki et al :
Application No. 10/259,283 : DECISION GRANTING PETITION
Filed: September 27, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 740756-2536 :

This is a decision on the petition, filed July 17, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 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 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 Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\july9\259283.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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caj

Mailed : 12-14-06

In re Application of
Kyoung Hwan Choi et al.
Serial No. 10/259,291
Filed: September 30, 2002
For: AIR BREATHING DIRECT METHANOL FUEL CELL PACK

: DECISION ON
: PETITION

This is a decision on the PETITION UNDER 37 CFR 1.144 TO WITHDRAW THE RESTRICTION REQUIREMENT mailed April 6, 2006 and made final in the office action mailed May 31, 2006.

On November 7, 2005, the Examiner issued a Final Office Action rejection claims 1-48. Applicants filed a Request for Continued Examination on March 7, 2006. On April 6, 2006, an restriction and election of species requirement was made by the examiner. Restriction had not been required previously. Applicants traversed the restriction requirement in a response filed April 28, 2006. The examiner repeated the restriction requirement in an office action mailed May 31, 2006 and made the restriction requirement final. Claims 2-3, 5-6, 8-9, 14, 25-39, and 41-48 were withdrawn from consideration as being drawn to a non-elected invention.

On October 11, 2006, the instant petition under 37 CFR 1.144 was filed to formally request the withdrawal of the restriction requirement.

Petitioner argues that the restriction as maintained is improper because the requirement was applied after final action and there was no serious burden presented.

DECISION

Section 803 of the MPEP states:

803 Restriction — When Proper
Under the statute, the claims of an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 802.01, § 806.06, and § 808.01) or distinct (MPEP § 806.05 - § 806.05(j)).

If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they

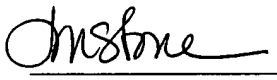
include claims to independent or distinct inventions.

In making the restriction final, the examiner states that the claims as amended require a burdensome search and concludes that restriction between the inventions is proper.

Petitioner requests withdrawal of the restriction requirement because the restriction requirement was imposed after final action. This argument has been considered but is not persuasive. With reference to section 706.07(h) of the MPEP, after the filing of an RCE, the Office will withdraw the finality of any Office action to which a reply is outstanding and the submission will be entered and considered. Therefore, restriction, if proper, may be required.

Petitioner further argues that there is no serious burden on the examiner to search all of the claims in the application. This argument is persuasive. The examiner has not established that any serious burden exists to examine all of the claims. All of the claims are classified in the same area and the examiner has not provided evidence, such as by citing patents which are evidence of a separate status in the art although classified together or evidence of a separate field of search. The lack of a burden is further evidenced by the fact that the examiner has previously examined claims covering the same or similar scope as that which was presented in the amended claims. The restriction requirement is improper and should be withdrawn.

Accordingly, the restriction requirement is found to be improper and the petition to withdraw the restriction requirement is **GRANTED**. The application is being forwarded to the examiner in order to rejoin non-elected claims 2-3, 5-6, 8-9, 14, 25-39, and 41-48 and issue a new and complete non-final office action.



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

BUCHANAN INGERSOLL & ROONEY PC
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

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KED & ASSOCIATES, LLP
P.O. BOX 221200
CHANTILLY, VA 20153-1200

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JAN 25 2008

OFFICE OF PETITIONS

In re Application of :
Cheol Woo You et al :
Application No. 10/259,292 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. K-0435

This is a decision on the petition, filed January 23, 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 January 18, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2616 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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DENNISON ASSOCIATES
133 RICHMOND STREET WEST
SUITE 301
TORONTO, ON
M5H 2L7 CANADA

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OFFICE OF PETITIONS

In re Application of :
Leon Saltsov, et al. :
Application No. 10/259,299 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. WH 11 346-1US :

This is a decision on the petition under 37 CFR 1.137(b), filed September 9, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed December 22, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 23, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment and a Request for Continued Examination (RCE); (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed September 9, 2005 is accepted as having been unintentionally delayed.

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

The application matter is being forwarded to Technology Center 3600, Art Unit 3653 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Retta Williams

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

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JUL 13 2004

Paper No. 9

In re Application of
Jarmo Leppanen
Application No. 10/259,308
Filed: September 30, 2002
Attorney Docket No. 007919-075

: DECISION ON PETITION

This is a decision on the petition filed on June 4, 2004 by which petitioner requests 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 October 8, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that the application is not abandoned because a reply to the Office letter in question was in fact timely filed. Petitioner has supported this allegation by submitting a copy of the reply, a copy of petition for a two month extension of time which authorized a charge of the extension fee against counsel's deposit account, a copy of authorization to charge claim fee surcharges necessitated by the reply, and a copy of a post card filing receipt for these papers showing that they were in fact received in the Office on March 8, 2004. As this date is within the period set by the Office letter in question for filing a reply thereto, as extended by the petition for extension of time, it is evident that this application is not abandoned. Additionally, Office financial records confirm that the above fees were charged 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 is being forwarded to the Head Supervisory Applications Examiner who will process the reply filed on March 8, 2004, and thereafter the application will be forwarded to the examiner for appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Ronald L. Grudziecki, Esq.
Burns, Doane, Swecker & Mathis, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

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Suite 500
3000 K Street
Washington DC 20007

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OFFICE OF PETITIONS

In re Application of
Watanabe
Application No. 10/259,328
Patent No; 6,890,961
Filed: September 30, 2002
Attorney Docket No. 088473-0118

:DECISION GRANTING LETTER AND
:NOTICE OF INTENT TO ISSUE
:CERTIFICATE OF CORRECTION

This decision is in response to Patentee's' "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT" filed on December 28, 2005 requesting that the Office verify the Patent Term Adjustment determined at the time of the issuance of the patent. This letter is considered a letter of good faith and candor concerning the determination of PTA. The Office thanks patentee for bringing this application to the attention of the USPTO.

Patentee's letter is **GRANTED.** The correct amount of PTA at the time of the issuance of the patent is **0** days. The Office will also adjust the PTA calculation to reflect this decision.

The Office will *sua sponte* issue a certificate of correction reflecting this decision. Patentee is given **ONE MONTH OR (30) DAYS** WHICHEVER IS LONGER to respond to this decision if patentee believe this decision is in error. No extensions of time under 37 CFR 1.136 will be granted.

Patentee submitted a letter asserting the Office determination disagreed with applicants determination. Patentee did not assert how much PTA they believed to be the proper amount

The determination of PTA is determined as follows: A) The Office missed the requirements of 37 CFR 1.702(a)(4) by a period of 256 days. In addition, the Office missed the requirement of 37 CFR 1.702(a)(2) by a period of 140 days.[1] Accordingly, the proper amount of administrative

[1]The additional time period accrued between the dates of May 6, 2004 and September 22, 2004 for the Office failure to respond to patentee's RCE submission filed on January 5, 2004 until September 22, 2004. It is noted that PALM records reflect a notice of allowability entered into the record on March 17, 2004, however, the file history does not reflect that the notice of allowability was mailed to applicants. Moreover, it appears that the notice of allowability was

delay is 396 days (256 + 140=396). Patentee delayed a period of 241 days with the submission of the IDS on September 2, 2004.[2] See 37 CFR 1.704(c)(8). In addition, patentee delayed by a period of 51 days for the reply to the August 15, 2004 final rejection.[3] As for the 88-day reduction under 37 CFR 1.704(c)(10), the Office notes that the miscellaneous letter is a request for acknowledgment of the IDS submission of September 2, 2004. Because this was patentee's first opportunity to have the failure to acknowledge the IDS addressed[4], the 88 day reduction is in error. However, it is further noted that PALM failed to enter the written status inquiry of July 19, 2005 . Accordingly, the Office did not assess the proper 120-day reduction under 37 CFR 1.704(c)(10). Accordingly, the proper amount of applicant delay in this application is 412 days. Accordingly, the correct amount of PTA at the time of the issuance of the patent is zero (396-412=0) days.

After the mailing of this decision, the Office will forward this patented file to the certificate of correction branch for an issuance of a certificate fo correction. The certificate of correction branch will await the thirty day or one month period and then issue this certification of correction.

The Office thanks patentee for his/her good faith and candor in bring this to the attention of the Office and will not require any fee to be assessed for the submission of this letter.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.

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

cc: Draft certificate of correction
Adjusted PAIR calculation

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mailed with the notice of allowance of September 22, 2004.

[2]Applicants filed an RCE on January 5, 2004 and then filed an IDS submission on September 2, 2004, a two hundred and forty one (241) day delay.

[3]The reduction began on November 16, 2005 (day after 3-month deadline) and ended on the date of the RCE submission on January 5, 2004.

[4]It is noted that after the IDS submission of 9/2/2004, applicant mailed a notice of allowance on 9/22/2004.

PALM INTRANET

Day : Saturday
Date: 9/2/2006
Time: 09:55:30

PTA Calculations for Application: 10/259328			
Application Filing Date:	09/30/2002	PTO Delay (PTO):	256
Issue Date of Patent:	12/27/2005	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	88
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-168		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
71	09/02/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		168	
67	12/27/2005	PATENT ISSUE DATE USED IN PTA CALCULATION	256		65
66	11/19/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
65	12/15/2004	ISSUE FEE PAYMENT VERIFIED			
64	11/16/2005	RECEIPT INTO PUBS			
63	10/27/2005	WORKFLOW - FILE SENT TO CONTRACTOR			
62	06/22/2005	EXPORT TO INITIAL DATA CAPTURE			
61	02/23/2005	RECEIPT INTO PUBS			
60	01/24/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
59	01/24/2005	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
58	10/29/2004	MISCELLANEOUS INCOMING LETTER		88	60
57	12/15/2004	ISSUE FEE PAYMENT RECEIVED			
56	12/07/2004	RECEIPT INTO PUBS			
55	09/24/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
54	09/24/2004	RECEIPT INTO PUBS			
51	09/22/2004	MAIL NOTICE OF ALLOWANCE			
50	09/22/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
49	09/02/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	03/17/2004	NOTICE OF ALLOWABILITY			
47	01/15/2004	DATE FORWARDED TO EXAMINER			
46	01/05/2004	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			

45	01/15/2004	DATE FORWARDED TO EXAMINER			
44	01/05/2004	REQUEST FOR CONTINUED EXAMINATION (RCE)			
43	01/15/2004	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
40	12/20/2003	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
39	12/20/2003	MISCELLANEOUS ACTION WITH SSP			
38	12/12/2003	IMPROPER REQUEST FOR CONTINUED EXAMINATION			
19	12/12/2003	WORKFLOW - REQUEST FOR RCE - BEGIN			
18	12/01/2003	MAIL ADVISORY ACTION (PTOL - 303)			
17	11/30/2003	ADVISORY ACTION (PTOL-303)			
16	11/14/2003	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
15	11/21/2003	DATE FORWARDED TO EXAMINER			
14	11/14/2003	AMENDMENT AFTER FINAL REJECTION			
13	08/15/2003	MAIL FINAL REJECTION (PTOL - 326)			
12	08/11/2003	FINAL REJECTION			
11	06/10/2003	DATE FORWARDED TO EXAMINER			
10	06/04/2003	RESPONSE AFTER NON-FINAL ACTION			
9	03/11/2003	MAIL NON-FINAL REJECTION			
8	03/10/2003	NON-FINAL REJECTION			
7	12/02/2002	CASE DOCKETED TO EXAMINER IN GAU			
6	09/30/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	11/22/2002	CASE DOCKETED TO EXAMINER IN GAU			
4	11/07/2002	APPLICATION DISPATCHED FROM OIPE			
3	11/04/2002	APPLICATION IS NOW COMPLETE			
2	10/08/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/30/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	6,980,961 B2
DATED	:	December 27, 2005
INVENTOR(S)	:	Watanbe.

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 (168) days

Delete the phrase "by 168 days" and insert – by 0 days--

UNITED STATES PATENT AND TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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MAY - 6 2004

In re Application of :
John A. Gelardi *et al* : DECISION ON PETITION
Application No. 10/259,341 :
Filed: September 27, 2002 :
Attorney Docket No. 103.0020
AGI 02-2

This is a decision on the petition to make special filed on February 19, 2004. The $130.00 petition fee has been received.

The petition is granted.

The petition to make special is based upon the existence of an actual infringement. A review of the petition shows that all of the requirements established in MPEP § 708.02(II) for a petition on that grounds have been satisfied. Therefore, petitioner is entitled to have this application handled special in accordance with MPEP 708.02, subsection styled "Handling of Petitions to Make Special".

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 3728, 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

Priest & Goldstein, PLLA
5015 Southpark Drive
Suite 230
Durham, NC 27713-7736

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/15/09

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/259,352 Patent No.: 6,798,519

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)

Randolph Square
Palm Location 7580

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

703-756-1573

Thank You For Your Assistance

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

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

Comments: _____

CHARLES D. GARBER
SUPERVISORY PATENT EXAMINER — 2812

SPE — **Art Unit**

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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/259,366	09/17/2002	1614	740	2002_0942		14	1

CONFIRMATION NO. 9826

CORRECTED FILING RECEIPT

OC000000012006689

000513
WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON, DC 20006-1021

Date Mailed: 03/02/2004

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

Applicant(s)

Domenico Fanara, Wanze, BELGIUM;
Henri Vranckx, Bruxelles, BELGIUM;
Michel Deleers, Linkebeek, BELGIUM;
Pierre Grognet, Bruxelles, BELGIUM;

Domestic Priority data as claimed by applicant

This application is a DIV of 09/674,163 10/27/2000 PAT 6,471,970

Foreign Applications

BELGIUM 9800329 04/30/1998

If Required, Foreign Filing License Granted: 07/14/2003

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Use of gellable pharmaceutical compositions in periodontology

Preliminary Class

514

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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14150 S. W. KARL BRAUN DRIVE
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BEAVERTON OR 97077-0001

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OCT 12 2007

OFFICE OF PETITIONS

In re Application of :
Heath :
Application No. 10/259,372 : ON PETITION
Filed: September 27, 2002 :
Attorney Docket No. 7168-US1 :
For: TIME CORRELATION OF DATA ACQUISITION SAMPLES FROM INDEPENDENT SYSTEMS IN A LOGIC ANALYZER

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

The above-identified application became abandoned for failure to timely submit a reply within one month or thirty days (whichever was longer) of the mailing of the December 19, 2006 Notice of Non-Compliant Amendment (Notice). No response being received, this application became abandoned on January 20, 2007.

Applicant has submitted an amendment in reply to the December 19, 2006 Notice, an acceptable statement of the unintentional nature of the delay in responding to the December19, 2006 Notice, and the $1,500.00 petition fee.

The statement of unintentional delay presented in the petition does not comply with the current rule. 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" be submitted. However, the statement presented will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 2611 for consideration of the amendment filed on July 17, 2007.

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

Shirene Willis Brantley

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

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1940 Duke Street
Alexandria, VA 22314

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OFFICE OF PETITIONS

In re Patent No. 6,837,966 :
Issue Date: January 4, 2005 :
Application No. 10/259,382 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. 226274US6YA :

This is a decision on the petition filed January 26, 2005, which is being treated as a request 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 granted.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3223. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

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

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td

Mailed: MAR 4 2004

In re application of :
Robert Wolf et al. : DECISION ON
Serial No. 10/259,402 : PETITION
Filed: September 30, 2002 :
For: PROCESS AND DEVICE FOR DRYING OF A MATERIAL WEB

This is a decision on the PETITION UNDER 37 CFR 1.181 FOR ENTRY OF THE AFTER FINAL AMENDMENT filed August 4, 2003.

On June 3, 2003, a final office action was mailed to Applicants, rejecting all of the pending claims under 35 USC 103 as being obvious and 35 USC 112 2nd paragraph as being indefinite. Applicants responded to this office action with an amendment after final which was filed on August 4, 2003. The examiner refused entry of the amendment in an advisory action mailed August 27, 2003.

On October 15, 2003, the instant petition under 37 CFR 1.181 was timely filed to request the entry of the after final amendment of August 4, 2003.

Petitioner's position is that the amendment after final did not raise any new issues as alleged by the examiner in the advisory action and that the amendment further reduces the issues for appeal.

DECISION

Section 714.13 of the MPEP states:

ENTRY NOT A MATTER OF RIGHT

It should be kept in mind that applicant cannot, as a matter of right, amend any finally rejected claims, add new claims after a final rejection (see 37 CFR 1.116) or reinstate previously canceled claims.
Except where an amendment merely cancels claims, adopts examiner suggestions, removes issues for appeal, or in some other way requires only a cursory review by the examiner, compliance with the requirement of a showing under 37 CFR 1.116(c) is expected in all amendments after final rejection. Failure to properly reply under 37 CFR 1.113 to the final rejection results in abandonment.

An amendment filed at any time after final rejection, but before an appeal brief is filed, may be entered upon or after filing of an appeal brief provided the total effect of the amendment is to (A) remove issues for appeal, and/or (B) adopt examiner suggestions.

ACTION BY EXAMINER
See also MPEP § 706.07(f).
In the event that the proposed amendment does not place the case in better form for appeal, nor in condition for allowance, applicant should be promptly informed of this fact, whenever possible, within the statutory period. The refusal to enter the proposed amendment should not be arbitrary. The proposed amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified. Ordinarily, the specific deficiencies of the amendment need not be discussed. The reasons for nonentry should be concisely expressed. For example:

(A) The claims, if amended as proposed, would not avoid any of the rejections set forth in the last Office action, and thus the amendment would not place the case in condition for allowance or in better condition for appeal.
(B) The claims, if amended as proposed, would raise the issue of new matter.
(C) The claims as amended present new issues requiring further consideration or search.
(D) Since the amendment presents additional claims without canceling any finally rejected claims it is not considered as placing the application in better condition for appeal. *Ex parte Wirt*, 1905 C.D. 247, 117 O.G. 599 (Comm'r Pat. 1905).

In the final rejection mailed June 3, 2003, all of the claims were rejected under 35 USC 112 2nd paragraph as being indefinite. The examiner's position was that there was no antecednt basis for limitations found in claims 5, 7-8 and 16. In the after final amendment, Applicants attempted to amend dependent claims 5, 7, 8 and 16 to correct the antecedent basis problem raised by the examiner in the final office action. The examiner stated in the advisory action that such an amendment would raise a new issue that would require a further search and/or consideration.

Petitioner argues that the proposed amendments to the claims were directed solely to formal matters addressing issues raised by the examiner in the final office action. It is urged by petitioner that such a change to the claims would not require any further search and/ or consideration other than determining whether the amendments overcome the 35 USC 112, 2nd paragraph rejection. This argument is persuasive

Petitioner also argues that the amendment would reduce the issues for appeal as there would be fewer issues on appeal. This argument is also persuasive.

Because the after final amendment does not present any new issues requiring further search and/ or consideration, and because the amendment reduces the issues for appeal, the denial of entry by the examiner was improper. Accordingly, the petition for entry of the after final amendment is **GRANTED.**

It is noted that an appeal brief has been filed in the instant application. The application is being forwarded to the examiner for consideration of the brief in a manner consistent with this decision.

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Insang Song	:	DECISION GRANTING PETITION
Application No. 10/259,427	:	AND WITHDRAWING THE
Filed: September 30, 2002	:	HOLDING OF ABANDONMENT
Attorney Docket No. 030681-432	:	

This is a decision on the "PETITION FOR RESTART OF PERIOD FOR RESPONSE OR, IN THE ALTERNATIVE, PETITION TO WITHDRAW HOLDING OF ABANDONMENT - FAILURE TO RECEIVE OFFICE ACTION", filed December 12, 2005, which is being treated as a petition under 37 CFR 1.181.

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

The holding of abandonment is **WITHDRAWN**.

The above-identified application became abandoned for failure to timely file a response to the Notice of Allowance mailed November 30, 2004. This Notice set a statutory period for reply of three (3) months for issue fee transmittal. No issue fee having been received, the application became abandoned on March 1, 2005. The mailing of this decision precedes the mailing of a Notice of Abandonment.

Petitioner states that he did not timely receive the Notice of Allowance. To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been

received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "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, petitioner has submitted a satisfactory docket record showing all his replies docketed for the date of February 28, 2005 (the date set by the Notice of Allowance).

Accordingly, the holding of abandonment is withdrawn.

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

The matter is being returned to Group Art Unit 2841 for remailing of a Notice of Allowance, 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

---

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

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

[3] Id.

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Paper No. 6

Supervisor, Patent Prosecution Services
PIPER RUDNICK LLP
1200 Nineteenth Street, N.W.
Washington, DC 20036-2412

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SEP 02 2003

OFFICE OF PETITIONS

In re Application of :
Mandel, et al. :
Application No. 10/259,459 : DECISION REFUSING STATUS
Filed: September 30, 2002 : UNDER 37 CFR 1.47(a)
Attorney Docket No.: 3802-001-27 :
For: METHOD FOR THE TREATMENT OF :
PARKINSON'S DISEASE :

This is in response to the petition under 37 CFR 1.47(a), filed May 20, 2003.

The petition is **DISMISSED**.

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

The above-identified application was filed September 30, 2002 without an executed oath or declaration and naming Ronald J. Mandel and Stuart E. Leff as joint inventors. Accordingly, on November 30, 2002, a "Notice to File Missing Parts of Nonprovisional 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, or in the instant application, the legal representatives of the deceased 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 USC 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

Applicant lacks requirement (1) set forth above. Petitioner has failed to establish that the non-signing inventor cannot be located. Joy Salvador declares that a letter which included a declaration and assignment document were forwarded to the non-signing inventor at the non-signing inventor's last known address on January 8, 2003 and March 3, 2003. The declaration indicates these letters were received by one other than the non-signing inventor.

Petitioner has failed to indicate what, if any, additional efforts were made to reach or locate the non-signing inventor and

present the non-signing inventor with a complete copy of the application papers.

Petitioner is required to establish that additional efforts to locate the non-signing inventor and present to him a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) were undertaken. A statement of facts regarding such additional efforts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the non-signing inventor. The statement(s) 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, an Internet search and/or search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition.

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

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

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 8

Supervisor, Patent Prosecution Services
PIPER RUDNICK LLP
1200 Nineteenth Street, N.W.
Washington, DC 20036-2412

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OFFICE OF PETITIONS

In re Application of :
Mandel, et al. :
Application No. 10/259,459 : DECISION ON PETITION
Filed: November 30, 2002 :
Atty. Dkt. No. 3802-001-27 :
For: METHOD FOR THE TREATMENT OF :
PARKINSON'S DISEASE :

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed October 17, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Renewed Petition," and should only address the deficiencies noted below. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

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.

Petitioner, however, has failed to submit an oath or declaration in full compliance with 37 CFR 1.63. Thus the requirements of the outstanding Notice to File Missing Parts of Nonprovisional Application have not been met. The declaration submitted herewith is not acceptable for it contains alterations that have not been initialed and/or dated as per 37 CFR 1.52(c). Any renewed petition must be accompanied by a oath or declaration in compliance with 37 CFR 1.63.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By hand:	U.S. Patent and Trademark Office 220 20th Street S. Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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Supervisor, Patent Prosecution Services
PIPER RUDNICK LLP
1200 Nineteenth Street, N.W.
Washington, DC 20036-2412

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OFFICE OF PETITIONS

In re Application of	:	
Mandel, et al.	:	
Application No. 10/259,459	:	DECISION NOTING JOINDER
Filed: September 30, 2002	:	OF INVENTOR AND PETITION
Atty. Dkt. No.: 3802-001-27	:	UNDER 37 CFR 1.47(a) MOOT
For: METHOD FOR THE TREATMENT OF	:	
PARKINSON'S DISEASE	:	

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed September 1, 2004.

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Gicquel et al.	:	
Application No. 10/259,460	:	DECISION ON APPLICATION
Filing or 371(c) Date: 09/30/2002	:	FOR PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
3715.0061-01	:	

This is a decision on the "Notice of Error in the Determination of Patent Term," filed January 26, 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 TO THE EXTENT INDICATED HEREIN**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is twenty-three **(23)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 26, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days.

On January 26, 2006, applicant timely submitted the instant application for patent term adjustment[1]. Applicant requests that the Determination of Patent Term Adjustment be corrected from 0 days, as indicated on the Determination of PTA mailed October 26, 2005, to an adjustment of 19 days. Applicant asserts that the Notice of Non-Compliant Amendment (37 CFR 1.121) (hereinafter "Notice"), mailed by this Office on January 19, 2005, was mailed in error. Applicant asserts that the response addressing the erroneously mailed notice, filed February 7, 2005, should not result in the reduction of Applicant's patent Term. Applicant also submits that they are entitled to an additional five (5) days of patent term adjustment under 37 CFR 1.702(a)(4) because after applicant filed their compliant reply on December 22, 2004, the Office did not mail an Office action until April 29, 2005.

[1] PALM records show that the Issue Fee payment was received in the Office on January 26, 2006.

Applicant states that this application is subject to a terminal disclaimer.

The circumstances of the mailing of the Notice have been considered. The paper filed February 7, 2005, was filed to correct an omission per the January 19, 2005 Notice. However, as confirmed by the final Office action mailed May 3, 2005, the Notice was mailed in error. The amendment filed December 22, 2004 was fully compliant. The period of reduction of 47 days, pursuant to 1.704(c)(7), is not warranted and is being removed. Thus, the total period of Applicant delay is one hundred twenty-three (123) days.

In connection with the mailing of the Office action on May 3, 2005 (not April 29, 2005), an adjustment of 11 days (not 5 days) is properly attributed to the Office in accordance with 37 CFR 1.702(a)(2). Applicant filed a reply to the non-final office action on December 22, 2004. The mailing of the final Office action on May 3, 2005, was 11 days after four (4) months from the filing of the Amendment on December 22, 2004. Thus the total period of Office delays is one hundred forty-six (146) days.

In view thereof, the correct patent term adjustment at the time of the allowance is **twenty-three (23) days** (146 – 123).

Applicant's deposit account has been charged the petition fee of $200.00 as authorized in the instant petition.

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 Petitions Attorney Derek L. Woods at (571) 272-3232.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations

Day : Monday
Date: 12/4/2006

Time: 19:38:34

PALM INTRANET

PTA Calculations for Application: 10/259460			
Application Filing Date:	09/30/2002	PTO Delay (PTO):	135
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	170
Post-Issue Petitions:	0	Total PTA (days):	23
PTO Delay Adjustment:	58		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
49	12/04/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	11		
48	12/04/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	47		
38	10/26/2005	MAIL NOTICE OF ALLOWANCE			
37	10/24/2005	ISSUE REVISION COMPLETED			
36	10/24/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
35	12/22/2004	TERMINAL DISCLAIMER FILED			
34	09/30/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
33	10/06/2005	NOTICE OF ALLOWABILITY			
32	09/14/2005	DATE FORWARDED TO EXAMINER			
31	09/06/2005	AMENDMENT AFTER FINAL REJECTION		34	29
30	09/06/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	05/03/2005	MAIL FINAL REJECTION (PTOL - 326)			
28	04/29/2005	FINAL REJECTION			
27	02/17/2005	DATE FORWARDED TO EXAMINER			
26	02/07/2005	RESPONSE AFTER NON-FINAL ACTION		47	22
25	02/07/2005	WORKFLOW INCOMING AMENDMENT IFW			
24	01/19/2005	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
23	01/18/2005	DATE FORWARDED TO EXAMINER			
22.1	12/22/2004	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
22	12/22/2004	RESPONSE AFTER NON-FINAL ACTION		89	19
21	12/22/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
20	12/22/2004	WORKFLOW INCOMING AMENDMENT IFW			

19	06/24/2004	MAIL NON-FINAL REJECTION			
18	06/23/2004	NON-FINAL REJECTION			
17	05/19/2004	DATE FORWARDED TO EXAMINER			
16	05/12/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
15	05/12/2004	WORKFLOW INCOMING AMENDMENT IFW			
14	04/13/2004	MAIL RESTRICTION REQUIREMENT	135		-1
13	04/09/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
12	01/06/2003	CASE DOCKETED TO EXAMINER IN GAU			
11	09/30/2002	PRELIMINARY AMENDMENT			
10	12/12/2002	APPLICATION DISPATCHED FROM OIPE			
9	12/10/2002	APPLICATION IS NOW COMPLETE			
5	11/05/2002	CLEARED BY L&R (LARS)			
4	10/10/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	10/09/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	09/30/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	09/30/2002	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

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LEVEL 3 COMMUNICATIONS, LLC
c/o CPA Global
P.O. Box 52050
Minneapolis MN 55402

In re Application of	:	
Paul E. Stolorz, et al.	:	
Application No. 10/259,497	:	DECISION GRANTING PETITION
Filed: September 30, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0093-US-U1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 7, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 27, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2451 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
Petitions Examiner
Office of Petitions

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

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MINNEAPOLIS MN 55402

MAILED

APR 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Stolorz et al.	:	
Application Number: 10/259497	:	ON PETITION
Filing Date: 09/30/2002	:	
Attorney Docket Number: 0093-US-U1	:	

This is a decision in reference to the petitions filed on May 27, 2009, which are treated as (a) a petition under 37 CFR 1.48(a)(1) requesting a person be added as a named inventor and (b) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.64 which requires that a named inventor execute a supplemental declaration.

The petition is **DISMISSED**.

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 1.183 and 1.48," 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).

On September 30, 2002, the above-identified application was filed with a declaration naming Paul E. Stolorz, John K. Salmon, Michael S. Warren, Jeffrey Koller, Aric Hagberg, Maksim Yevmenkin, Mark Brady, and David Pfitzner as joint inventors.

On May 27, 2009, the present petitions were filed. Petitioners request that Ted Middleton be added as a named inventor under 37 CFR 1.48(a)(1). Petitioners also request waiver under 37 CFR 1.183 of 1.64 in that three named inventors, Stolorz, Salmon, and Hagberg, refuse to execute the supplemental declaration naming them as joint inventors.

Petition Under 37 CFR 1.48(a).

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;

(3) the fee set forth in 37 CFR 1.17(i), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The petition lacks item (2).

As described below, the petition lacks item (2) in that non-initialed and/or non - dated alterations have been made to the oath or declaration. See 37 CFR 1.52(c). Specifically, there are non-initialed alterations in the space for joint inventor Yevmenkin's signature.

Petition Under 37 CFR 1.183 to waive 1.64.

Petitioners assert that inventors Stolorz, Salmon, and Hagberg have refused to sign the declaration naming them and the other listed inventors, and the person sought to be added as a joint inventor, as joint inventors.

Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." The facts presented on the record do not adequately establish an extraordinary situation. Petitioner has not sufficiently established any special circumstances of equities that would require suspension of the rules in the interests of justice.

This application bears an original Declaration executed by joint inventors Stolorz, Salmon, and Hagberg and, thus, the provisions of 37 CFR 1.47 do not apply with regard to Stolorz's, Salmon's, and Hagberg's signatures. Nevertheless, it is appropriate to apply the principles thereof to the situation at hand.

As stated above, the declaration is objected to in that it contains non-initialed and/or non-dated alterations with respect to joint inventor Yevmenkin. As such, the petition is dismissed without prejudice to reconsideration pending submission of a supplemental declaration without non-initialed and/or non-dated alterations.

It is further noted that the last letters mailed to Stolorz, Salmon, and Hagberg were mailed on May 18, 2009, and were delivered on May 19, 2009, eight (8) days before the subject petition was filed. Given the short time frame between the mailing of the letters asking for the declaration to be signed and returned, and the filing of the subject petition, petitioners should explain whether an executed supplemental declaration was received from any of the inventors after the filing of the subject petition.

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

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

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

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

A reply may also be filed using the EFS-Web System of the USPTO.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA, VA 22182-3817

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MAY 16 2006

OFFICE OF PETITIONS

In re Application of :
Masatomo Mizuta, et al. :
Application No. 10/259,509 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No.: FQ5-588 :

This is a decision on the petition, filed May 9, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2617 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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OFFICE OF PETITIONS

In re Application of Mizuta et al. :
Application No. 10/259,509 : Decision on Petition
Filing Date: September 30, 2002 :
Attorney Docket No. FQ5-588 :

This is a decision on the petition under 37 CFR 1.181, filed May 1, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

The above-identified application was deemed abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed December 8, 2006, which set a statutory period for reply of three (3) months. A Notice of Abandonment was mailed on April 4, 2007.

The instant petition establishes petition never received the Notice of Allowance. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Petitioner requests the Office re-mail the December 8, 2006 Notice of Allowance. When responding to the Notice by submitting a copy of the issue fee transmittal form, if petitioner wishes for a past payment of the issue fee to be applied, petitioner must explicitly request such action.

Technology Center Art Unit 2617 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will mail a new Notice of Allowance and Notice of Allowability. The time period for responding to the new Notices will be set to run from the mailing date of the new Notices.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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REENA KUYPER, ESQ.
BYARD NILSSON, ESQ.
9255 SUNSET BOULEVARD, SUITE 810
LOS ANGELES CA 90069

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OFFICE OF PETITIONS

In re Application of :
Ronald A. Katz :
Application No. 10/259,540 : DECISION ON PETITION
Filed: 09-27-2002 :
Attorney Docket No. 6046-101 D10 :

This is a decision on the petition under 37 CFR 1.181, filed April 18, 2007, to withdraw the holding of abandonment for the above-identified application.

On September 12, 2006, the Office mailed a Notice of Non-Compliant Amendment, which set an extendable period of one month or thirty days, which was longer, to reply. On April 10, 2006, the Office mailed a Notice of Abandonment, indicating the application was abandoned because no reply was received.

In the present petition, applicant asserted that he filed a timely reply. In support of the assertion, applicant submitted a copy of the reply and a copy of the return postcard receipt, acknowledging receipt of the reply and request for an extension of time within the fifth month on March 21, 2006.

A review of the record reveals that on March 21, 2006, the Office received applicant's request for a five-month extension of time to respond, the required fee, and the reply, which included a certificate of mailing dated March 12, 2006. Accordingly, the response is considered timely filed on March 12, 2006. See 37 CFR 1.8(a).

The petition is **granted**. The Notice of Abandonment is hereby withdrawn. The application is restored to pending status in view of the fact that a response was timely submitted.

The matter is being referred to Technology Center Art Unit 2614 for a review of the reply filed on March 21, 2006 (certificate of mailing dated March 12, 2006).

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination procedures should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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TECHNOLOGY CENTER 2600

REENA KUYPER, ESQ.
BYARD NILSSON, ESQ.
9229 SUNSET BOULEVARD
SUITE 630
LOS ANGELES CA 90069

In re Application of:
KATZ, RONALD A.
Application Serial No.: 10/259,540
Filed: September 27, 2002
For: **COMMERCIAL PRODUCT ROUTING SYSTEM WITH VIDEO VENDING CAPABILITY**

DECISION
ON PETITION

This is a decision on the petition to make special, filed on April 3, 2010 under MPEP § 707.02.

Petitioner requests that the application be considered special.

MPEP § 708.01 [R-2] List of Special Cases, states in part:
(I) Applications pending more than 5 years, including those which, by relation to a prior United States application, have an effective pendency of more than 5 years. See MPEP § 707.02. [emphasis added]

In accordance with MPEP §§ 707.02 and 708.01(I), applications pending over 5 years, including those which by relation to a prior United States application, should be considered special. This application by virtue of its prolonged pendency is considered special in accordance with PTO policy. A petition to effect such status is not necessary. Any request for interview should be initiated via the Examiner.

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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Paper No. 5

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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APR 1 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Nann et al.	:	
Application No. 10/259,544	:	DECISION GRANTING
Filed: 27 September, 2002	:	PETITION
Atty's Docket No. SWR-0089	:	

This is a decision on the petition filed on 18 November, 2002, to accord the above-identified application a filing date of 27 September, 2002, with Figures 1, 3, and 4 contained in the priority document as a part of the original disclosure.

The petition is **GRANTED**.

On 27 September, 2002, the application was filed. On 30 October, 2002, however, Initial Patent Examination Division mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" stating that the application had been accorded a filing date of 27 September, 2002, but that, inter alia, Figures 1, 3, and 4 described in the specification appeared to have been omitted from the application. A two (2)-month period for reply was set.

In response, on 18 November, 2002, the present petition was filed, accompanied by four (4) sheets of corrected drawings. Petitioners argue that Figures 1, 3, and 4 were filed with the other application papers deposited in the USPTO on 27 September, 2002. In support, a copy of petitioner's postcard receipt bearing a USPTO Office date stamp of 27 September, 2002, and the above-identified application number and itemizing the filing of 4 sheets of drawings was filed with the present petition.

A review of the record reveals that one (1) sheet of drawings containing Figure 2 and three sheets containing no (0) figures are located in the application file. Figures 1, 3, and 4, however, cannot be located among the application papers deposited on 27 September, 2002.

Petitioners further assert that Figures 1, 3, and 4 were located in the foreign priority document filed concurrently with the

original application papers. A review of the German priority document submitted on 27 September, 2002, reveals that it does include four (4) drawing sheets containing Figures 1, 3, and 4. As these drawings were present on filing on 27 September, 2002, applicant is entitled to have Figures 1, 3, and 4 in the priority document considered as part of the drawings of this application for filing date purposes. Accordingly, on petition, the drawings of Figures 1, 3, and 4 in the German priority document will be construed as part the drawings for this application.

The petition resulted from applicant's filing error and not as a result of an error on the part of the Office, as the Notice correctly stated that Figures 1, 3, and 4 *appeared* to have been omitted. Therefore, the petition fee will not be refunded.

The application will be processed and examined using the application papers filed on 27 September, 2002, and the including the three (3) sheets of drawings containing Figures 1, 3 and 4 contained in the German priority document filed with the original application papers. For petitioners' convenience a copy has been made for examining purposes of the three (3) sheets of drawings containing Figures 1, 3, and 4 as contained in the aforementioned priority document. The three (3) sheets containing no drawing figures filed on 27 September, 2002, will not be used for processing or examination, but will be retained in the application file.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 27 September, 2002, using the application papers filed on that date, including the copy of the three (3) sheets of drawings containing Figures 1, 3, and 4 contained in the German priority document, and for an indication in Office records that four (4) sheets of drawings were present on filing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Edward Parsonage	: DECISION ON REQUEST FOR
Patent Number	: 7591831	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/259,545	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/27/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **769** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No. 4

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington, DC 20037-3213

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OFFICE OF PETITIONS

In re Application of :
Lijun Ma :
Application No. 10/259,561 :
Filed: September 30, 2002 :
Attorney Docket No. A8407 :

DECISION ON PETITION

This is a decision on the Petition Under 37 C.F.R. 1.53(e) or 37 C.F.R. 1.182 to Accord Filing Date of Application, filed January 6, 2003, requesting the application be accorded a filing date of September 30, 2002, including 37 pages of specification and abstract, 5 pages of claims, and 6 sheets of drawings. The petition is properly treated under 37 C.F.R. 1.182.

The petition is **granted**.

The application was filed on September 30, 2002. However, on November 5, 2002, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application, noting, *inter alia*, that the specification was missing , and that the application had been deposited without drawings.

In response, Petitioner files the instant petition wherein Petitioner argues that 37 pages of specification and abstract, 5 pages of claims, and 6 sheets of drawings were filed initially, on September 30, 2002, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of 37 pages of specification and abstract, 5 pages of claims, and 6 sheets of drawings on September 30, 2002.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of 37 pages of specification and abstract, 5 pages of claims, and 6 sheets of drawings, by this Office on September 30, 2002. Petitioner has also re-submitted 37 pages of specification and abstract, 5 pages of claims, and 6 sheets of drawings with the instant petition.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers

being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503. The copy of 37 pages of specification and abstract, 5 pages of claims, and 6 sheets of drawings, supplied on January 6, 2003, will be used for examination purposes.

No petition fee is required, and none has been charged.

The Declaration, filed January 6, 2003, has been entered and made of record.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of September 30, 2002, and an indication that 37 pages of specification and abstract, 5 pages of claims, and 6 sheets of drawings, were present on filing.

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

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES 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 29 2008

OFFICE OF PETITIONS

WITHERS & KEYS FOR BELL SOUTH
P. O. BOX 71355
MARIETTA, GA 30007-1355

In re Application of :
TANG, et al. :
Application No. 10/259,617 : DECISION ON PETITION
Filed: September 30, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **BS02-222** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 31, 2007, to revive the above-identified application.

The petition is **DISMISSED.**

The application became abandoned for failure to timely pay the issue and publication fees on or before April 3, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed January 3, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 4, 2007.

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

35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned or patent lapsed for failure to pay the issue fee. The filing of a continuing application without payment of the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned or patent lapsed for failure to the pay the issue fee or any portion thereof.

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

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

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

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

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

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
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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AT&T LEGAL DEPARTMENT
ONE AT&T WAY
ATTN: PATENT DOCKETING, ROOM 2A-207
BEDMINSTER, NJ 07921

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NOV 2 4 2008

OFFICE OF PETITIONS

In re Application of :
TANG, et al. :
Application No. 10/259,617 : DECISION ON PETITION
Filed: September 30, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **BS02-222** :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 3, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed January 3, 2007. Accordingly, the date of abandonment of this application is April 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 payment of the issue fee of $1440, (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

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

Brian W. Brown
Petitions Examiner
Office of Petitions

cc: **WITHERS & KEYS LLC**
P.O. BOX 71355
MARIETTA, GA 30007-1355

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/16/08 **Paper No.:** _____

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction on Patent No.: 7327491

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.

CHANGE TO CLAIM 10 APPROVED?

Thank You For Your Assistance

D. Irvine
Certificates of Correction Branch
Tel. No. 703-308-9590

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

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

Comments:

No new matter has been introduced nor has the scope of the meaning of the claim been changed by the corrections requested by the Applicant.

/Edward L. Coles/ SPE

2625 Art Unit

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

Ser. No. 10259624

PATENT NO. : 7,327,491 B2

DATED : February 5, 2008

INVENTOR(S) : MINAKO KATO 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 1

Line 26, "type" should read --the type--; and
Line 28, "respective" should read --respectively--.

COLUMN 2

Line 64, "M (M 2)" should read --M (M $\geq$ 2)--.

COLUMN 4

Line 67, "liner" (both occurrences) should read --linear--.

COLUMN 5

Line 62, "abscissas" should read --abscissa--.

MAILING ADDRESS OF SENDER:
FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
(212) 218-2100 - Telephone
(212) 218-2200 - Facsimile

PATENT NO. US 7,327,491 B2

No. of add'l. copies @ 30¢ per page

Form PTO 1050 (Rev. 3-82)

2219271v1

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

Appl. No. 10259624

PATENT NO. : 7,327,491 B2

DATED : February 5, 2008

INVENTOR(S) : MINAKO KATO 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 12

Line 41, "said quantization means" should read --quantization table--.

MAILING ADDRESS OF SENDER:
FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
(212) 218-2100 - Telephone
(212) 218-2200 - Facsimile

PATENT NO. US 7,327,491 B2

No. of add'l. copies @ 30¢ per page

Form PTO 1050 (Rev. 3-82)

2219271v1

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MAILED

JUN 22 2004

Office of the Director
Group 3600

William D. Durkee
11802 Village Park Circle
Houston TX 77024-4418

In re Application of :
Maria Del Carmen Rodriguez et al. :
Application No. 10/259,682 :
Filed: September 27, 2002 :
For: ERGONOMIC BINDER CLIP

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 March 30, 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 November 26, 2003. and supported by a statement under 37 C.F.R. 1.8(b)(3).

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

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

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

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

SNM/mjz: 6/1/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

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CISLO & THOMAS, LLP
233 WILSHIRE BLVD
SUITE 900
SANTA MONICA CA 90401-1211

MAILED

MAR 15 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Paper No. 4

In re application of	:	**DECISION ON PETITION**
Setrak A. Ajamian et al.	:	**TO MAKE SPECIAL**
Application No. 10/259,701	:	**(ACCELERATED**
Filed: September 27, 2002	:	**EXAMINATION)**
For: INTERNET CLAIMS HANDLING SERVICES	:	

This is in response to the petition filed on September 27, 2002 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII. The delay in acting on this petition is regrettable.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirement (E) above. The petition does provide a general discussion of the cited references; however, the discussion does not make it clear how the claimed invention is patentable over the cited references in accordance with 37 CFR 1.111(b) and (c). Applicant is required to provide a more detailed discussion of how the claimed subject matter is patentable over each of these references.

For the above stated reason, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

SUMMARY: Petition to Make Special **DISMISSED**.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

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

KJD/mjz 2/19/04

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
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ALEXANDRIA, VA 22313-145
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AUG 17 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Cislo & Thomas, LLP
233 Wilshire Blvd
Suite 900
Santa Monica, CA 90401-1211

In re application of : **DECISION ON PETITION**
Setrak A. Ajamian et al. : **TO MAKE SPECIAL**
Application No. 10/259,701 : **(ACCELERATED**
Filed: September 27, 2002 : **EXAMINATION)**
For: INTERNET CLAIMS HANDLING SERVICES :

This is in response to the renewed petition filed on April 5, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are no directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The renewed petition fails to adequately meet requirement (E) above. The renewed petition does provide a general discussion of the cited references; however, the discussion does not make it clear how the claimed invention is patentable over the cited references in accordance with 37 CFR 1.111(b) and (c). For example, applicant's statements that a reference is not related to applicant's claimed invention "as set forth in the initial filing papers and as summarized in the original petition" is clearly a generalized discussion that does not clearly point out how applicant's claimed subject matter defines over the cited reference. Applicant is required to provide a more detailed discussion of how the claimed subject matter is patentable over each of the cited references.

For the above stated reason, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

SUMMARY: Petition to Make Special **DISMISSED**.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/vdb 8/12/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No.

PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN VA 22102

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AUG 1 2 2004

OFFICE OF PETITIONS

In re Application of
Ron Hoffman, et al.
Application No. 10/259,709
Filed: September 30, 2002
Attorney Docket No. P 282593 DKT.25CIP

ON PETITION

This is a decision in response to a petition, filed August 11, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid June 25, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 1734 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

12/1/05

In re Application of	:	
Ronald J. Hoffman et al.	:	WITHDRAWAL
Serial No. 10/259,709	:	FROM ISSUE
Filed: September 30, 2002	:	UNDER 37 CFR1.313(b)

For: MASTER PROCESSING APPARATUS:

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 Christopher Fiorilla at 571-272-1187.

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 M. Stone

Jacqueline Stone, Director
Technology Center 1700/2900
Chemical and Materials Engineering

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

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)
6743030	2004-06-01	10/259,728	2002-09-30	20080574.ORI

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	/James J. Paige/	Date (YYYY-MM-DD)	2008-09-22
Name	James J. Paige	Registration Number	50886

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
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In re Patent No. 6743030
Issue Date: June 1,2004
Application No. 10259728
Filed: September 30,2002
Attorney Docket No. LINJ3023/EM

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

This is a decision on the electronic petition, filed September 22,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 22,2008 . 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 21, 2005

TO SPE OF : ART UNIT 2634

SUBJECT : Request for Certificate of Correction on Patent No.: 6,901,112

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.

Please see the claims!

Thank You For Your Assistance

sp

Certificates of Correction Branch

Tel. No. 703-308-9390 x120

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 claims listed in the proposed certificate of correction are identical with the claims listed in Patent No. 6,901,112

SPE

2611

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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SEP 1 1 2003

OFFICE OF PETITIONS

In re Application of :
Polk :
Application No. 10/259,746 : DECISION DISMISSING
Filed: September 30, 2002 : PETITION
Attorney Docket No. 06556-0040 :

This is a decision on the petition filed August 14, 2003, requesting the filing date for the instant application be changed from December 16, 2002, to September 30, 2002.

The petition is **granted**.

The application and a signed declaration were filed on September 30, 2002.

The postcard receipt submitted by petitioner indicates that 37 pages of drawings were filed on September 30, 2002. The file contains 37 pages of drawings which do not include Figure 21b cited in the specification.

On November 6, 2002, the Office of Initial Patent Examination mailed a Notice stating that Figure 21b was missing. The Notice gave petitioner three options:
(1) prove that Figure 21b was in fact filed on September 30, 2002,
(2) take no action and accept the application as filed, or
(3) (a) submit a copy of the missing page,
(b) submit $130,
(c) submit a new declaration, and
(d) submit a petition under 37 CFR 1.182 requesting a filing date as of the date the copy of the missing page is filed.

In response, on December 16, 2002, petitioner submitted a copy of the missing page.[1] Petitioner submitted $130. Petitioner submitted a copy of the declaration filed with the original application papers. However, petitioner did not file a formal petition under 37 CFR 1.182, but only stated, "Please associate the enclosed declaration and drawing with the application."

The Office entered the newly submitted Figure 21b and changed the filing date to December 16, 2002.

Petitioner now contends that the Office acted erroneously in changing the filing date. Petitioner contends that a formal petition under 37 CFR 1.182 was not filed and contends that petitioner did not desire a later filing date.

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[1] It is noted that the page contains the header "36/38" which the other drawing pages do not. The Office construes the header to mean that the page was intended to be page 36 of 38 pages of drawings. However, as noted previously, only 37 pages of drawings were filed with the original application. The header supports the conclusion that Figure 21b was not part of the papers filed on September 20, 2002.

Since a formal petition was not in fact filed, relief will be granted. The $130 fee submitted on December 16, 2002, is unnecessary since a petition under 37 CFR 1.182 was not filed and will be credited to petitioner's deposit account. Since a petition under 37 CFR 1.182 was not filed, Figure 21b will not be entered.

If petitioner desires for the examiner to consider the missing page which was not submitted as part of the original disclosure, then petitioner may submit that page as an amendment.[2] Any such amendment will, of course, be reviewed by the examiner for new matter. See MPEP 608.02(a). The amendment is not new matter if the substance was a part of the disclosure of the prior application (the provisional application) which has been incorporated by reference.

The original application papers will include only those application papers present on the date of deposit.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 30, 2002, using only the application papers filed on September 30, 2002. Figure 21b filed on December 16, 2002, will not be entered and will not be considered part of the application.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

---

[2] MPEP 201.06(c) states that:

. . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. . . .

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).

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HARNESS DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

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AUG 29 2007

OFFICE OF PETITIONS

In re Application of :
Francis Dominique et al :
Application No. 10/259,753 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. 29250-000678/US :

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

The petition is **DISMISSED.**

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 13, 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). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

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

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/259,753	**Applicant(s)** DOMINIQUE ET AL.	
	Examiner Jaison Joseph	**Art Unit** 2611	

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

THE REPLY FILED 23 February 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☒ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

CHIEH M. FAN
SUPERVISORY PATENT EXAMINER

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P.O. BOX 8910
RESTON, VA 20195

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JAN 1 1 2008

OFFICE OF PETITIONS

In re Application of :
Francis Dominique et al :
Application No. 10/259,753 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. 29250-000678/US :

This is a decision on the renewed petition filed, September 7, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on September 7, 2007.

The petition fee of $1500 was previously paid on February 23, 2007. As authorized, this fee is being credit to petitioner's deposit account.

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

This matters is being referred to Technology Center AU 2611 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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DW 04-03

Paper No. 3

STAAS & HALSEY LLP
700 11TH STREET, NW
SUITE 500
WASHINGTON DC 20001

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APR 07 2003

OFFICE OF PETITIONS

In re Application of :
Hwang, Park, Sun, Lim, and Kim :
Application No. 10/259,765 : DECISION ACCORDING STATUS
Filed: 30 September, 2002 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 1572.1039 :

This is in response to the petition under 37 CFR 1.47(a)[1] filed on 30 September, 2002.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor cannot be found. Specifically, petitioners have shown, via the declaration of Dong-ho Lee, that a copy of the application sent to the non-signing inventor's last known address was returned as undeliverable by the Korean postal service. Despite additional attempts to contact the non-signing inventor via telephone, the non-signing inventor could not be located.

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

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

It is noted that a declaration filed with the original application papers was signed by joint inventors Hwang, Park, Sun, and Kim on behalf of non-signing inventor Lim. However, an additional original copy declaration was also filed in which it appears that joint inventor Hwang subsequently signed the signature block for non-signing joint inventor Lim. The latter declaration is improper because an acceptable declaration is one in which all the signing inventors signed in their respective signature blocks and the signature block of the non-signing inventor is left blank or all the signing inventors sign a statement saying that they are signing on behalf of the non-signing inventor. A declaration is not acceptable if there are two or more signing inventors and only one of the signing inventors signed on behalf of the non-signing inventor.

The declaration in which joint inventor Hwang appears to have signed in the signature block for non-signing joint inventor Lim will not be accepted, but will be retained in the application file. Instead, the declaration with the signature block blank for joint inventor Lim has been accepted. Petitioners **must** notify the office if this is not a correct interpretation.

The petition fee of $130.00 has been charged to counsel's deposit account, No. 19-3935.

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

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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DFW 04-03

Kyoeng-won Lim
Seokwang Villa #403
334-60, Saeryu-1dong, Kwonseon-ku
Suwon city, Kyunggi-do
KOREA

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APR 0 7 2003

OFFICE OF PETITIONS

In re Application of
Hwang et al.
Application No. 10/259,765
Filed: 30 September, 2002
For: Apparatus for and method of manufacturing a collimator

Dear Mr. Lim:

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

STAAS & HALSEY LLP
700 11TH STREET, NW
SUITE 500
WASHINGTON, DC 20001

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

ROCKWELL COLLINS, INC.
Attention: Kyle Eppele
M/S 124-323
400 Collins Rd. NE
Cedar Rapids, IA 52498

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FEB 2 8 2003

OFFICE OF PETITIONS

In re Application of
Newhouse, et al.
Application No. 10/259,767
Filed: September 27, 2002
Attorney Docket No. 02CR015/KE

DECISION ON PETITION

This is in response to the "Petition to Establish Prior Receipt in the P.T.O. of Item Considered as Omitted by the P.T.O. -," filed December 19, 2002. Petitioner requests that the above-identified application be accorded a filing date of September 27, 2002, with page 6 of the specification considered a part of the original application disclosure.

Application papers in the above-identified application were filed on September 27, 2002. However, on November 13, 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, page 6 of the specification appeared to have been omitted.

In reply, petitioner timely filed the instant petition. Petitioner asserts that the application as filed on September 27, 2002, included page 6 of the specification. In support thereof, petitioner submitted a copy of their return postcard. Petitioner also submitted a copy of page 6 as petitioner maintains it was filed on September 27, 2002.

The evidence has been considered, but is not persuasive that page 6 of the specification was among the papers filed on September 27, 2002. The PTO file is the official record of the papers originally filed in this application. A review of the official file reveals that no page 6 was filed on September 27, 2002, since no page 6 is 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. For this purpose, applicants have submitted a copy of their return postcard receipt.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. However, a postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification

(including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as prima facie evidence of receipt of those items. See MPEP 503.

A review of petitioner's receipt card reveals that it bears an OIPE stamp reflecting a date of receipt of September 27, 2002; and it lacks any notation of non-receipt of any item listed. However, the receipt postcard does not specifically and properly itemize each separate component of the application being filed. Rather, the postcard indicates that "Patent Appl. comprising 29 pages, Abstract w/Declaration... " are enclosed. This description is not sufficient to verify the specific contents of the filing. The ambiguity arises in that 29 pages are present in the application, including the abstract, but not including page 6 of the specification. Thus, upon receipt of this postcard, it would not have been proper for the Office to make a notation that the noted 29 pages were not present. Yet, at the same time, the absence of the notation is consistent with 29 pages, including the abstract, but not including page 6 of the specification being received in the Office on September 27, 2002.

It is concluded that the receipt card evidence is not *prima facie* evidence of the filing of the page 6 of the specification on September 27, 2002. Moreover, this evidence does not overcome the conclusion that the application file reflects what was received in the Office on September 27, 2002. Thus, the application cannot be accorded a filing date of September 27, 2002, with page 6 as a part of the original application disclosure.

Accordingly, the petition is **DISMISSED**.

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision in order to be considered timely. See 37 C.F.R. § 1.181(f). This time period may not be extended pursuant to 37 C.F.R. §1.136(a) or (b).

The application with a filing date of September 27, 2002, is being returned to the Office of Initial Patent Examination, for processing 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.

/BMF/

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Patent No. 7,296,343	:	
Issue Date: November 20, 2007	:	
Application No. 10/259,783	:	ON PETITION
Filed: September 30, 2002	:	
Attorney Docket No. 606402006900	:	

This is a decision on the petition filed January 2, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee to the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Carl Friedman
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

DATE 2/27/08

APPLICATION NUMBER 10/259,783

DOC CODE WFEE

DOC DATE 3/4/08

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

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

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

Docket No.: 606402006900
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Yoshinao USUI et al.

Patent No.: 7,296,343

Issued: November 20, 2007

For: ELECTRONIC COMPONENT MOUNTING APPARATUS

REQUEST TO CORRECT ASSIGNEE'S NAME
PURSUANT TO 37 CFR 3.81(b)

MS PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Patentees respectfully requests under 37 CFR 3.81(b) that the name of the assignee on the above referenced patent be corrected to reflect the name of the proper assignee, "Hitachi High-Tech Instruments Company, Ltd."

Pursuant to 37 CFR 3.81(b), the patentee states the following:

(1) An assignment was submitted for recordation as set forth in 37 CFR 3.11 to Hitachi High-Tech Instruments Company, Ltd., before issuance of the patent. Copies of the assignment records reflecting recordation of the assignments at Reel 014197 Frame 0023 on June 20, 2003, and Reel 014199 Frame 0796 on June 20, 2003 are attached hereto. Also, submitted herewith is a corrective Assignment was recorded on December 19, 2007 at Reel 020290 Frame 0776 to correct the conveying party of the original Assignment recorded at Reel 014197 Frame 0023.

Adjustment date: 03/04/2008 CKHLOK
03/04/2008 INTEFSW 00002638 031952 10259783
01 FC:1464 130.00 CR

03/04/2008 CKHLOK 00000012 031952 7296343
va-225739
01 FC:1808 130.00 DA

(2) The failure to include the correct assignee name on the Form PTOL-85B was inadvertent.

(3) The Commissioner is authorized to charge the processing fee set forth in 37 CFR 1.117(h) of $130 for consideration of this Request to Deposit Account No. 03-1952, Ref. 606402006900.

(4) A Request for Certificate of Correction is also attached hereto.

The patentee respectfully requests that the file of this patent be forwarded to the Certificates of Correction Branch for issuance of a Certificate of Correction should the Request be granted.

Dated: January 2, 2008

Respectfully submitted,

By_____

Barry E. Bretschneider
Registration No.: 28,055
MORRISON & FOERSTER LLP
1650 Tysons Blvd, Suite 300
McLean, Virginia 22102
(703) 760-7743

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

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JUN 02 2008

OFFICE OF PETITIONS

In re Application of :
David w. Nesbitt :
Application No. 10/259,793 : DECISION ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. 06975-319001/Mapping 02 :

This is a decision on the petition, filed August 24, 2007, under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Restriction Requirement mailed December 21, 2006, which set a one (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on August 9, 2007.

Petitioner asserts that the Office action dated December 21, 2006 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

Additionally, Office records indicate that the Office action mailed December 21, 2006 was returned to the USPTO as undelivered on December 28, 2006.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to Technology Center Art Unit 3663 for review of the reply received on August 24, 2007.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KEVIN R. SPIVAK
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN VA 22102

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JUN 28 2007

OFFICE OF PETITIONS

In re Application of :

VINDEBY, Per :
Application No. 10/259,829 : DECISION ON PETITION
Filed: September 30, 2002 : TO WITHDRAW
Attorney Docket No. **449122043500** : 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 **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 Deborah S. Gladstein on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **PER VINDEBY**
WILL-DOHM-WEG 4
MUNCHEN, GERMANY 81739

cc: **KEVIN SPIVAK, BELL BOYD & LLOYD LLC**
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 7

HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON DC 20004

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MAY 07 2003

OFFICE OF PETITIONS

In re Application of :
Biesty et al. :
Application No. 10/259,840 : DECISION GRANTING
Filed: September 30, 2002 : PETITION UNDER
Attorney Docket No. 86769-0002 : 37 CFR 1.47(a)
For: COLLABORATIVE PORTAL :
SYSTEM FOR BUSINESS LAUNCH :
CENTERS AND OTHER ENVIRONMENTS :

This is in response to the petition under 37 CFR 1.47(a), filed March 28, 2003.[1]

The petition is granted.

Petitioner has shown that Timothy von Herrmann, the non-signing inventor refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of David D. Nelson establishes that the inventor was presented with the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[1] Petitioner obtained a three-month extension of time to reply. Accordingly, the petition is considered timely filed.

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Timothy von Herrmann
108 Lincoln Road
Lincoln, MA 01773

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MAY 07 2003

OFFICE OF PETITIONS

In re Application of :
Biesty et al. :
Application No. 10/259,840 :
Filed: September 30, 2002 : LETTER
Attorney Docket No. 86769-0002 :
For: COLLABORATIVE PORTAL :
SYSTEM FOR BUSINESS LAUNCH :
CENTERS AND OTHER ENVIRONMENTS :

Dear Mr. von Herrmann:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Christina Tartera Donnell at (703) 306-5589. 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
Senior Petitions Attorney
Office of Petitions

HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON DC 20004

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

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OFFICE OF PETITIONS

In re Application of :
CANFIELD, et al. :
Application No. 10/259,844 :
Filed: September 30, 2002 :
Attorney Docket No. **06975-288001** :

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 April 2, 2007.

The request is **APPROVED.**

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

The request was signed by Scott R. Boalick. Scott R. Boalick has been withdrawn as attorney or agent of record; all other attorneys remain of record. The correspondence address of record remains unchanged.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/02/07

TO SPE OF : ART UNIT 1763

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/259858** Patent No.: **7147749**

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**.

A Green

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: approved. please see the correction on the attached "certificate of correction" regarding the second correction; line 65 should be line 670

PL

PARVIZ HASSANZADEH
~~SUPERVISORY PATENT EXAMINER~~
SPE

1792
Art Unit

SN 10/259,858

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,147,749

DATED: December 12, 2006

INVENTOR(S): Shinya NISHIMOTO, et al.

It is certified that an error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Change in Column 9, line 47, "DyO_3" to --Dy_2O_3--.

Change in Column 12, line ~~65~~ 67, "DyO_3" to --Dy_2O_3--.

Change in Column 15, line 4, "DyO_3" to --Dy_2O_3--.

Change in Column 18, line 49, "DyO_3" to --Dy_2O_3--.

Mailing address of sender:

Customer Number

22850

Tel. (703) 413-3000
Fax. (703) 413-2220
(OSMMN 03/06)

Patent No. 7,147,749

No. of add'l copies
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AUG 16 2007

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

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DEC 07 2004

OFFICE OF PETITIONS

In re Application of :
Stefan Mazzola et al :
Application No. 10/259,869 : ON PETITION
Filed: September 27, 2002 :
Attorney Docket No. 2002P15511US :

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/publication fee in a timely manner in reply to the Notice of Allowance mailed July 12, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 13, 2004.

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

This matter is being referred to Publishing Division.

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

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P.O. BOX 7021, SUITE 330
TROY MI 48007-7021

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OFFICE OF PETITIONS

In re Application of :
Martinez et al. :
Application No. 10/259,907 : ON PETITION
Filed: September 27, 2002 :
Attorney Docket No. CDC-10202/38 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 11, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

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

This above-identified application became abandoned for failure to timely file a response to a final Office Action which was mailed on October 19, 2005. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on January 20, 2006. A Notice of Abandonment was mailed on May 4, 2006.

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

The 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 19, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). The petition was accompanied by an amendment. The examiner has reviewed the amendment and determined the amendment did not place the application in condition for allowance. An advisory action accompanies this petition decision. Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

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

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

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

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

Enclosure: advisory action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/259,907	**Applicant(s)** MARTINEZ ET AL.	
	Examiner GAILENE R. GABEL	**Art Unit** 1641	

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

THE REPLY FILED 11 December 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

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

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

   NOTE: *See 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: *NONE*.
   Claim(s) objected to: *NONE*.
   Claim(s) rejected: *1-7 and 9-11*.
   Claim(s) withdrawn from consideration: *NONE*.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

GAILENE R. GABEL
Primary Examiner
Art Unit: 1641

Continuation of 3. NOTE: Claim 1 step b) has been amended to recite, "(second fluorescent label) effective for binding any of the antigens, and step c) has been amended to recite, "distinguishing a plurality of different antigens ... by observing a shift in the fluorescence wavelength or intensity emitted from said second fluorescent label created upon formation (of complexes)"; thereby, raising new issues of consideration under the provisions of 35 USC 112, second paragraph for indefiniteness (i.e. 1) it is unclear how a fluorescent label has specific binding affinity in the absence of an antibody specific for the antigen, and 2) it is unclear how observation of a shift is effected by the second fluorescent label which is created after formation of complexes, in the absence of an initial detection or measurement step as there appears to be only one detection step performed in step d); as well as search and examination under the provisions of 35 USC 102 or 103, considering the new limitations set forth in claim 1 in relation to prior art including those currently of record.

Continuation of 11. does NOT place the application in condition for allowance because: the new limitations incorporated into claim 1 raise new issues requiring further consideration and search under the provisions of 35 USC 102 or 103, as well as examination thereof, on the merits relative to the relevant prior art.

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P.O. BOX 7021, SUITE 330
TROY MI 48007-7021

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OFFICE OF PETITIONS

In re Application of :
Martinez et al. :
Application No. 10/259,907 : ON PETITION
Filed: September 27, 2002 :
Attorney Docket No. CDC-10202/38 :

This is a decision on the papers filed on April 24, 2008 which are being treated as a renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 19, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is January 20, 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 $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1641 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment previously submitted in accordance with 37 CFR 1.114.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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2701 W. BIG BEAVER ROAD
P.O. BOX 7021, SUITE 330
TROY, MI 48007-7021

Mail Date: 04/21/2010

Applicant	: Joseph E. Martinez	: DECISION ON REQUEST FOR
Patent Number	: 7659085	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/259,907	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/27/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1458** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Catherine Anne Whealy
P.O. Box 220
Tolar TX 76476

In re Application of	:	
BROWN, GRAHAM NOEL	:	
Application No.: 10/259964	:	DECISION ON
Filing or 371(c) Date: September 29, 2002	:	PETITION
Attorney Docket Number: **5400**	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed October 17, 2003 .

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance, March 24, 2003.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756 - 1499.

Kendrick Sprunt
Application Assistance Unit
Office of Data Management

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OFFICE OF PETITIONS

In re Application of
Beckers Rolf et al.
Application No. 10/259,971
Filed: September 27, 2002
Attorney Docket No. A35457

ON PETITION

This is a decision on the petition filed April 21, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned March 31, 2006 for failure to timely pay the issue fee on or before March 30, 2006, in response to the Notice of Allowance mailed December 30, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The issue fee, publication fee and petition fee have been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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60 SOUTH SIXTH ST
MINNEAPOLIS MN 55402

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MAR 2 1 2005

OFFICE OF PETITIONS

In re Patent No. 6,820,114	:	DECISION ON
Rainer Brendle	:	PATENT TERM ADJUSTMENT
Issue Date: November 16, 2004	:	AND
Application No. 10/259,996	:	NOTICE OF INTENT
Filed: September 27, 2002	:	TO ISSUE
Attorney Docket No. 13913-052001	:	CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d)", filed January 18, 2005. Patentee requests that the patent term adjustment indicated on the patent be corrected from two hundred two (202) days to two hundred thirty-two (232) days.

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

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **two hundred thirty-one (231)** days.

On November 16, 2004, the above-identified application matured into U.S. Patent No. 6,820,114. The instant request for reconsideration filed January 18, 2005 (Certificate of Mailing dated January 14, 2005) was timely filed within two months of the date the patent issued. See § 1.705(d). The Patent issued with a Patent Term Adjustment of two hundred two (202) days. Patentee states that the determination of patent term adjustment days should not have been assessed applicant delay of fifty-one (51) days for the submission of a priority document after the mailing

of the Notice of Allowance.

The adjustment of fifty-one (51) days for the filing of a priority document after the mailing of a Notice of Allowance has been found to be incorrect. Applicant filed the priority document on September 27, 2004. The Office mailed a "PRIORITY ACKNOWLEDGMENT" on October 18, 2004. Accordingly, pursuant to 37 C.F.R. § 1.704(c)(10)(i), applicant delay with respect to this filing should have been twenty-two (22) days, not fifty-one (51) days.[1]

In view thereof, the correct determination of PTA at the time of issuance is two hundred thirty-one (231) days (253 days of PTO delay, reduced by 22 days of applicant delay).

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **two hundred thirty-one (231)** days subject to any disclaimers.

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

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

Enc: draft certificate of correction

[1] 37 C.F.R. § 1.704(c)(10)(i) states that the period of adjustment shall be 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."

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

Paper No. 3

ROBERT W BECKER & ASSOCIATES
11896 N. HIGHWAY 14
SUITE B
TIJERAS NM 87059

COPY MAILED

MAR 26 2003

OFFICE OF PETITIONS

In re Application of
Florian Fischer
Application No. 10/260,002
Filed: November 7, 2002
Title: EXTRUDER ARRANGEMENT

DECISION ON PETITION

This is a decision on the "Petition under 37 CFR 1.10(e)," filed February 19, 2003, requesting that the above-identified application be accorded a filing date of November 7, 2002.

Petitioner alleges that the above-identified application was originally deposited in "Express Mail" service of the United States Postal Service (USPS) on November 7, 2002, in accordance with the procedures set forth in 37 CFR 1.10. In support thereof, petitioners have submitted *inter alia* the declaration under 1.68 of Evelyn Stump, the secretary who deposited the papers; and copies of the original application papers, including a cover sheet entitled "Extruder Arrangement," itemizing the papers being deposited and showing the "Express Mail" mailing label No. EV154892771US thereon; the "Express Mail" mailing label; and their return postcard receipt. Copies of the original application papers described as the German language specification (6 pages); 2 pages claims (10); 1 page abstract; and 1 page drawings (2 figures) were also submitted. Further, the petition which is signed by registered practitioner Robert W. Becker, includes a statement verifying the copy of the original application papers supplied with the petition as a true copy of the original correspondence.

§ 1.10(e) provides that:

Any person mailing correspondence addressed as set out in §1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the

USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on

the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

The instant petition was filed promptly after petitioner became aware that the Office had no evidence of receipt of the application. The "Express Mail" mailing label No. EV154892771US shows a "date-in" of November 7, 2002. Petitioner's return postcard receipt is properly itemized and bears a USPTO PCT date of receipt stamp of 7 Nov 2002. Further, a review of the official Web site of the United States Postal Service reveals a shipment history for the package sent under "Express Mail" mailing label No. EV154892771US. Consistent with petitioner's arguments, the history states that this express mailing was accepted at 3:04 pm in Tijeras, NM on November 7, 2002, and arrived at 10:41 am in Arlington VA 22202.

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

All future correspondence concerning this application should be directed to application No. 10/260,002.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for processing **with a filing date of November 7, 2002.**

- It is noted that as filed on November 7, 2002, the application included a German language specification (6 pages), 2 pages claims (10), 1 page abstract, and 1 page drawings (2 figures);
- On petition filed February 19, 2003, applicant submitted the literal English translation of the specification, a preliminary amendment, a combined declaration and power of attorney, an assignment, an English translation of the German priority document, a request for grant of priority date, a certified copy of the German priority document, and a check in the amount of $910.00 for fees[1].

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

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

Nancy Johnson
Petitions Attorney
Office of Petitions

---

[1] Effective January 1, 2003, the basic statutory file fee for a utility application (lg. entity) increased to $750.00. Pursuant to the authorization of February 19, 2003, the discrepancy in payment of $10 has been charged to Deposit Account No. 02-1666.

UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE
JUN 2 5 2003
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Paper No. 3

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MAR 2 6 2003

OFFICE OF PETITIONS

In re Application of
Florian Fischer
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Title: EXTRUDER ARRANGEMENT

DECISION ON PETITION

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the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

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The instant petition was filed promptly after petitioner became aware that the Office had no evidence of receipt of the application. The "Express Mail" mailing label No. EV154892771US shows a "date-in" of November 7, 2002. Petitioner's return postcard receipt is properly itemized and bears a USPTO PCT date of receipt stamp of 7 Nov 2002. Further, a review of the official Web site of the United States Postal Service reveals a shipment history for the package sent under "Express Mail" mailing label No. EV154892771US. Consistent with petitioner's arguments, the history states that this express mailing was accepted at 3:04 pm in Tijeras, NM on November 7, 2002, and arrived at 10:41 am in Arlington VA 22202.

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

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The application is being forwarded to the Office of Initial Patent Examination (OIPE) for processing **with a filing date of November 7, 2002.**

- It is noted that as filed on November 7, 2002, the application included a German language specification (6 pages), 2 pages claims (10), 1 page abstract, and 1 page drawings (2 figures);
- On petition filed February 19, 2003, applicant submitted the literal English translation of the specification, a preliminary amendment, a combined declaration and power of attorney, an assignment, an English translation of the German priority document, a request for grant of priority date, a certified copy of the German priority document, and a check in the amount of $910.00 for fees[1].

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

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

Nancy Johnson
Petitions Attorney
Office of Petitions

[1] Effective January 1, 2003, the basic statutory file fee for a utility application (lg. entity) increased to $750.00. Pursuant to the authorization of February 19, 2003, the discrepancy in payment of $10 has been charged to Deposit Account No. 02-1653.

#4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

"Express Mail" Mailing Label Number: EV 235 697 110 US
Date of Deposit: February 19, 2003
I hereby certify that this paper and/or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Rosalie A. Centeno
Rosalie A. Centeno, Secretary

In the Application of Florian W. Fischer

Ser.No.: Not Yet Known (Based on German priority document 101 54 860.5 filed November 8, 2001)

For: EXTRUDER ARRANGEMENT

Originally Filed on: November 7, 2002

Assistant Commissioner for Patents

Washington, DC 20231

PETITION UNDER 37 CFR 1.10(e)

Sir:

After numerous conversations with the Applications Branch, it has been determined that the above-identified application did actually arrive at the US Patent Office since the application, which was sent via express mail, (Express Label Number EV 154 892 771 US - copy attached) was signed for. In addition, the filing postcard, which was submitted with the application, has been returned to our office and is date stamped (on November 7, 2002) by the USPTO. However, a serial number was not assigned or noted on the postcard (copy attached).

However, there are no further records of the application after its arrival to the US Patent Office. Therefore, we are considering the application lost, and are submitting a copy of the original application papers as well as a Declaration under 1.68, as instructed by the US Patent Office, under 37 CFR 1.10(e).

The application was originally submitted in the German language, without the Declaration

and Assignment Forms, or the corresponding required fees. Therefore, we are also enclosing herewith a response letter for a missing parts application (although no form has been received), a Combined Declaration and Power of Attorney form, an Assignment from the Inventor, the required submission fees, the English translation of the German priority document, a preliminary amendment which will bring the application into conformity with US Patent practice, and a certified copy of the German priority document.

We respectfully request that the application be entered as filed on November 7, 2002, a serial number assigned, and a filing receipt issued recognizing the original filing date.

Respectfully submitted,

Robert - Becker

Robert W. Becker, Reg. No. 26,255
for Applicant(s)

ROBERT W. BECKER & ASSOCIATES
707 Highway 66 East, Suite B
Tijeras, New Mexico 87059
Telephone: (505) 286-3511
Facsimile: (505) 286-3524

RWB:rac

Enclosures:
Express Label Copy (Nr. EV 154 892 771 US).
Return Postcard copy –date stamped by USPTO.
Copies of application papers as originally filed.
Declaration Form.
Assignment Form.
English translation of German Priority Document.
Required USPTO Fees
Preliminary Amendment
Letter with certified copy of the German Priority Document.

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Paper No.

David J Josephic
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FEB 12 2003

OFFICE OF PETITIONS

In re Application of
Mortellite et al.
Application No. 09/489,095
Filed: January 21, 2000
Attorney Docket No. CLOP/485CP

DECISION GRANTING PETITION

In re Application of
Mortellite et al.
Application No. 10/260,003
Filed: September 30, 2002
For: HIGH SPEED METHOD OF MAKING PLASTIC FILM AND NONWOVEN LAMINATES

This is a decision on the petition under 37 CFR § 1.53(e) filed November 5, 2002, requesting that an improper Continued Prosecution Application (CPA) under 37 CFR § 1.53(d) be treated as an application under 37 CFR § 1.53(b) and be accorded a filing date of September 30, 2002.

On April 2, 2002, a nonfinal Office action was mailed in application No. 09/489,095, which set a three (3) month shortened statutory period for reply. In response, a petition for a three (3) month extension of time and a request for a CPA under 37 CFR § 1.53(d) based on prior application No. 09/489,095 was filed on September 30, 2002. However, CPA practice no longer applies to applications, other than design applications, if the prior application was filed on or after May 29, 2000.[1]

[1] An earlier CPA was filed in application No. 09/489,095 on March 4, 2002. Thus, 37 CFR § 1.53(d)(1)(I) does not permit the filing of a further CPA.

Accordingly, the CPA request was improper because the prior application was filed on or after May 29, 2000. In the event that an applicant files a request for a CPA of a utility or plant application that was filed on or after May 29, 2000 (to which CPA practice no longer applies), the Office will automatically treat the improper CPA as a request for continued examination of the prior application (identified in the request for CPA) under new 37 CFR § 1.114.

On October 8, 2002, a Notice of Improper Request for Continued Examination (RCE) was mailed, stating that continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. The Notice further indicated that if the RCE was not accompanied by a reply, the time period set forth in the last Office action continued to run from the mail date of that action. Because applicants did not submit a reply to the nonfinal Office action with the RCE, the application became abandoned on October 3, 2002. A Notice of Abandonment was mailed on October 28, 2002.

On November 5, 2002, applicants filed the present petition under 37 CFR § 1.53(e). Applicants requested that the improper CPA be converted to an application under 37 CFR § 1.53(b). With the present petition, applicants submitted a complete copy of the prior application as originally filed, including the executed declaration and power of attorney, and a preliminary amendment; and paid the petition fee.

The petition is granted.

The application under 37 CFR 1.53(b) filed on September 30, 2002, has been assigned application No. 10/260,003. The CPA request, the present petition, the copy of the application as originally filed, including the executed declaration and power of attorney from the prior application, and the preliminary amendment have been removed from the file of application No. 09/489,095 and have been placed in application No. 10/260,003. A copy of the CPA request and the present petition will be retained in application No. 09/489,095 to complete the record therein. All further correspondence concerning the application under 37 CFR 1.53(b) should be directed to application No. 10/260,003, not application No. 09/489,095.

The Office finance records will be corrected to show that the $740.00 filing fee, $126 excess claim fee, $130 request for suspension fee all paid on September 30, 2002, and the $130.00 petition fee paid on November 5, 2002, were paid in application No. 10/260,003, not in application No. 09/489,095.

Application No. 09/489,095 will be forwarded to Files Repository.

Application No. 10/260,003 will be forwarded to the Office of Initial Patent Examination for further processing as an application filed under 37 CFR 1.53(b), not under 37 CFR 1.53(d), with a filing date of September 30, 2002, using the copy of the original application papers submitted on November 5, 2002.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

NJ

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Paper No. 3

JOSHUA KING
GRAYBEAL JACKSON HALEY LLP
155-108th AVENUE NE,
SUITE 350
BELLEVUE, WA 98004-5973

COPY MAILED

APR 17 2003

OFFICE OF PETITIONS

In re Application of :
Calum E. MacAuley :
Application No. 10/260,004 : DECISION ON PETITION
Filed: October 25, 2001 :
Title: APPARATUS AND METHODS :
RELATING TO SPATIALLY LIGHT- :
MODULATED MICROSCOPY :

This is a decision on the "Petition under 37 CFR 1.10(e)," filed February 26, 2003, requesting that the above-identified application be accorded a filing date of October 25, 2001.

Petitioner maintains that the above-identified application was filed on October 25, 2001, by being deposited in "Express Mail" service of the United States Postal Service (USPS), in accordance with the procedures set forth in 37 CFR 1.10 on that date. In support thereof, petitioners have submitted copies of the original application papers, the "Express Mail" mailing label, and their return postcard receipt. Further, the petition which is signed by registered practitioner Joshua King, includes a statement verifying that copy of the original application papers supplied with the petition as a true copy of the original correspondence, as requested.

§ 1.10(e) provides that:

Any person mailing correspondence addressed as set out in §1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the

USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post

Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Petitioner states that on January 22, 2002, they received a return postcard receipt acknowledging receipt of the application papers filed October 25, 2001. The postcard did not, however, note that an application number had been assigned. Moreover, despite having filed status requests, applicant received no further communications from the Office regarding the application papers filed October 25, 2001. Accordingly, the instant petition was filed. Under these circumstances, it is concluded that the instant petition was filed promptly after petitioner became aware that the Office had no further evidence of receipt of the application.

The evidence is persuasive that the application was deposited on October 25, 2001 as alleged, received in the USPTO on January 8, 2002, and subsequently lost in the Office. The "Express Mail" mailing label No. ET564725187US shows mailing by "Post Office to Addressee" service and shows a "date-in" of October 25, 2001. The return postcard receipt is properly itemized and bears an Office of Initial Patent Examination (OIPE) date of receipt stamp of October 25, 2001, consistent with a date of deposit by USPS Express Mail of October 25, 2001. Further, consistent with a delay in delivery to the USPTO, the postcard was not received by petitioner until January 22, 2002. In addition, the USPS shipment history provided by petitioner shows that this "Express Mail" package was delivered on January 8, 2002. Likewise, the USPTO's USPS Express Mail Information database confirms that the "Express Mail" package mailed under ET564725187US was accepted by the USPS at 5:51 pm on October 25, 2001, but not delivered until 7:40 am on January 8, 2002.

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

All future correspondence concerning this application should be directed to application No. 10/260,004.

The undersigned has attempted to locate the earlier filed papers, including the petition filed September 4, 2002, in the Office without success. Should applicant receive from the Office notification of another application number being assigned to the copies of the application papers hereby assigned application No. 10/260,004, applicant should file a request with the Office of Petitions to merge the files.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for processing **with a filing date of October 25, 2001.**

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

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

Nancy Johnson
Petitions Attorney
Office of Petitions

OIPE
JUN 27 2003
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03C@

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 3

JOSHUA KING
GRAYBEAL JACKSON HALEY LLP
155-108th AVENUE NE,
SUITE 350
BELLEVUE, WA 98004-5973

COPY

In re Application of
Calum E. MacAuley
Application No. 10/260,004
Filed: October 25, 2001
Title: APPARATUS AND METHODS RELATING TO SPATIALLY LIGHT-MODULATED MICROSCOPY

DECISION ON PETITION

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Petitions Attorney
Office of Petitions

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Paper No. 5

LAW OFFICES OF PATRICK J.S. INOUYE
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OFFICE OF PETITIONS

In re Application of	:
Pantoja et al.	:DECISION GRANTING
Application No. 10/260,005	:PETITION
Filed: 21 March, 2002	:
Attorney Docket No. 006.0216.01	:

This is a decision on the petition styled under 37 CFR 1.181, filed on 1 November, 2002 and supplemented by facsimile on 29 January, 2003, which is being treated as a petition under 37 CFR 1.53(e)(2), requesting that the above-identified application be accorded a filing date of 21 March, 2002.

The petition is **GRANTED**.

Petitioners assert that a bundle of papers was filed on 21 March, 2002, which petitioners intended to be a new nonprovisional application. However, the Application Transmittal Sheet accompanying the application papers stated that petitioners requested the conversion provisional Application No. 60/278,530 to a nonprovisional application. The petition to convert was dismissed on 23 May, 2002.

Petitioners now assert that the request for conversion was in error, and that petitioners simply desired to file a new application under 37 CFR 1.53(b) on 21 March, 2002. Petitioners have provided a copy of the application transmittal sheet, 29 pages of specification, 14 sheets of drawings, nonpublication request, and executed oath or declaration asserted to have been filed on 21 March, 2002. In support, on 29 January, 2003, petitioners supplied a copy of Express Mail label EL793271988US (the same Express Mail number found on the itemized Application Transmittal Sheet) showing an Official USPS postmark dated 21 March, 2002, as well as a postcard receipt showing an Office-date of 21 March, 2002, and itemizing the filing of, *inter alia*, 22 pages of specification and abstract (excluding claims), seven (7)

pages of claims, 14 sheets of drawings, a request under 35 U.S.C. § 122(b)(2)(B)(i), and an oath or declaration, and identifying the application by invention title, inventor's name, and attorney docket number.

A review of the Official file of Application No. 60/278,530 reveals that a Utility Patent Application Transmittal was received on 21 March, 2002. However, the specification, claims, and drawings allegedly filed on 21 March, 2002, are not located in the file of Application No. 60/278,530.

As such, a petition under 37 CFR 1.10(e) is inappropriate because some, but not all, of the papers petitioner asserts were filed by Express Mail on 21 March, 2002, were received.[1] Where there is a dispute as to the *contents* of correspondence submitted to the Office, an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what documents and or fees were filed in the Office with such correspondence. As such, petitioners' return postcard is the best evidence of what was received with the application papers filed on 21 March, 2002.

However, the evidence is convincing, based on petitioners itemized, stamped postcard receipt that the application papers deposited on 21 March, 2002, included 22 pages of specification and abstract (excluding claims), seven (7) pages of claims, 14 sheets of drawings, a request under 35 U.S.C. § 122(b)(2)(B)(i), and an oath or declaration. Therefore, the application was complete on filing and entitled to a filing date of 21 March, 2002.

In view of the decision, the present petition, including the application papers supplied on 1 November, 2002, and 29 January, 2003, have been assigned application No. 10/260,005 for identification purposes. All further correspondence concerning the application deposited on 21 March, 2002, should be directed to Application No. 10/260,005.

The application will be processed and examined with a filing date of 21 March, 2002, using the 22 pages of specification and

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[1] MPEP 503. Where the records of the Office (e.g. the file of the application) contain any documents or fees corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any documents or fees that are not among the official records of the Office. Id.

abstract, seven (7) pages of claims, and 14 sheets of drawings supplied on 1 November, 2002, and 29 January, 2003. Receipt of the preliminary amendment and nonpublication request filed on 1 November, 2002, is also acknowledged.

The application fees paid on 21 March, 2002, will be applied to Application No. 10/260,005. As this petition was necessitated by applicant's filing error, the petition fee of $130.00 will not be refunded.

The application is being forwarded to the Office of Initial Patent Examination for processing with a filing date of 21 March, 2002, using the 22 pages of description and abstract, seven (7) pages of claims, and 14 sheets of drawings supplied on 1 November, 2002, and 29 January, 2003.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Paper No. 6

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In re Application of
Pan, et al.
Application No. 09/682,685
Filed: October 5, 2001
Attorney Docket No. GEMS8081.099

DECISION ON PETITION

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OFFICE OF PETITIONS

In re Application of
Pan, et al.
Application No. 10/042,724
Filed: February 28, 2002
Title: System and Method of Imaging Using a Variable Speed For Thorax Imaging

This is a decision on the "Petition for Leave to File a Substitute Patent Application Under 37 CFR §§1.53(e), 1.182 and 1.183," filed February 28, 2002 and "Supplement to Petition" filed March 13, 2002. This also responds to a prior "Petition for Refund" and a "Request for Corrected Filing Receipt" both filed January 29, 2002.

On October 5, 2001, at 11:30:35 EDT[1], petitioner electronically filed the subject patent application entitled "System and Method of Imaging Using a Variable Speed Table for Thorax Imaging." At 12:10:19 EDT, petitioner electronically filed a patent application entitled "Efficient Multi-Slice Acquisition with Black Blood Contrast in Fast Spin Echo Imaging." Petitioner states that, on February 26, 2002, he was contacted by Official(s) at the USPTO Electronic Business Center who informed him of the double-filing of the patent application; the same specification, claims and drawings had been filed in both applications. In response, petitioner promptly filed the instant petition.

Relevant Statutes, Regulations and Rules

35 U.S.C. 111(a)(4) provides, in reference to nonprovisional applications, that:

> The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

The procedure for filing a nonprovisional application is set forth at 37 CFR 1.53(b). This section states in pertinent part that:

[1] Eastern Daylight Savings Time.

> The filing date of an application for patent filed under this section, except ..., is the date on which a specification as prescribed by 35 U.S.C. 112 containing a description pursuant to §1.71 and at least one claim pursuant to §1.75, and any drawing required by §1.81(a) are filed in the Patent and Trademark Office. No new matter may be introduced into an application after its filing date.
>
> (Emphasis added)

Moreover, §1.53(e) provides for certain failures to meet filing date requirements, as follows:

> (1) If an application deposited under paragraph (b), (c), or (d) of this section does not meet the requirements of such paragraph to be entitled to a filing date, applicant will be so notified, if a correspondence address has been provided, and given a time period within which to correct the filing error.
>
> (2) Any request for review of a notification pursuant to paragraph (e)(1) of this section, or a notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in §1.17(h). In the absence of a timely (§1.181(f)) petition pursuant to this paragraph, the filing date of an application in which the applicant was notified of a filing error pursuant to paragraph (e)(1) of this section will be the date the filing error is corrected.
>
> (3) If an applicant is notified of a filing error pursuant to paragraph (e)(1) of this section, but fails to correct the filing error within the given time period or otherwise timely (§1.181(f)) take action pursuant to this paragraph, proceedings in the application will be considered terminated. Where proceedings in an application are terminated pursuant to this paragraph, the application may be disposed of, and any filing fees, less the handling fee set forth in §1.21(n), will be refunded.

Whereas, §1.183 provides that:

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

Additionally, § 1.182 provides that:

> All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of

> the Commissioner, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in §1.17(h).

37 CFR 1.26(a):

> The Commissioner may refund any fee paid by mistake or in excess of that required. A change in purpose after the payment of a fee, such as when a party desires to withdraw a patent or trademark filing for which the fee was paid, including an application, an appeal or a request for oral hearing, will not entitle a party to refund of such fee.

MPEP §503 provides that:

> Applications which are entitled to a filing date and are filed, whether by regular mail or "Express Mail" under 37 CFR 1.10, by hand-delivery or otherwise, will not be returned to applicant even if requested. See 37 CFR 1.59. Accordingly, applicants must be careful not to file applications which are not intended to be filed, e.g., duplicates of applications already filed. Since 37 CFR 1.26(a) precludes refund of an application filing fee when applicant desires to withdraw an application, any request by applicant not to process or charge an application filing fee because the application was not intended to be filed must be in the form of a petition under 37 CFR 1.183 requesting suspension of the rules to the extent that the filing fee not be processed or charged. Any such petition must include the fee set froth in 37 CFR 1.17(h) and must be accompanied by an express abandonment of the application in accordance with 37 CFR 1.138. In order for such a petition to be granted, it must ordinarily be filed and acted upon prior to the date on which the application filing fee is processed or charged by the Office with regard to the application.

DISCUSSION

Petitioner acknowledges, albeit mistakenly, submitting the application entitled "Efficient Multi-Slice Acquisition with Black Blood Contrast in Fast Spin Echo Imaging" for both of the above referenced EPAVE submissions, resulting in Serial No. 09/682,685 ('685) being assigned to the first submitted application and Serial No. 09/682,687('687) being assigned to the second submitted application. Petitioner does not dispute that the papers applicant intended to be filed as application No. '685, the same papers that constitute the substitute patent applicant filed February 28, 2002, were not among the papers present in the application as filed on October 5, 2001. Petitioner does not argue that these papers were "present" in the application via a proper incorporation by reference, or by any other means.

Rather, petitioner, in essence, requests that the filing error be excused and he be allowed to later present the papers intended to have been filed on October 5, 2001, and retain a filing date of October 5, 2001. Petitioner recognizes the right to expressly abandon the mistakenly filed application No. '685 and accordingly file the appropriate application anew. However, expressly abandoning application No. '685 and refiling the appropriate

application would result in a loss of the October 5, 2001 filing date. As a result, petitioner may be jeopardized by an intervening art that may have a detrimental effect on the patentability of petitioner's invention. Additionally, refiling of the application would require a repayment of the filing fees originally paid on October 5, 2001.

Petitioner respectfully believes that the facts set forth herein describe an extraordinary situation that as a matter of justice justifies a waiver of the regulations. Petitioner clearly intended to file two separate and distinct patent applications on October 5, 2001. Regrettably, the same application was included in both EPAVE submissions and filed with the USPTO, yet, the transmittals, attorney docket numbers, and declarations identify two separate and distinct applications.

Petitioner contends that such a clerical error would not have occurred had the applications been filed through the traditional Express Mail system since hard copies are easily reviewable, and the undersigned's office policy is to have the filing attorney review all documents before insertion into the Express Mail envelope. While the Petitioner and its attorneys have adopted the PTO's electronic filing initiative, errors can occur, and petitioner does not believe that a clerical error in e-filing of a patent application should result in a loss of rights under this scenario.

Therefore, petitioner respectfully requests leave to file a substitute patent application and accordingly, replace the earlier filed application with the substitute patent application that was originally intended to be filed without a loss of the filing date or serial number originally accorded the first October 5, 2001 submission. Petitioner believes that C.F.R. §1.183 allows such leave to prevent an unintentional loss of petitioner's rights.

ANALYSIS

The application papers filed October 5, 2001, presently assigned serial No. '685, included a specification, claims and drawings, and thus, were properly accorded a filing date of October 5, 2001. No matter an applicant's intention, application papers not shown to have been present in this application on the filing date cannot be considered a part of the original disclosure of this application. As it is undisputed that the papers constituting the substitute patent application filed February 28, 2002, were not present in the Office on October 5, 2001, the application cannot be accorded the October 5, 2001 filing date with these papers as a part of the original application disclosure.

Moreover, applicant cannot make these papers a part of the application disclosure by filing a substitute application. First, of all, the application papers filed February 28, 2002, are not within the meaning of the term a "substitute" application of application No. 09/682,685. These papers are not a duplicate of the papers filed October 5, 2001. It is further noted that

even if they were they would not be entitled to the earlier filing date[2].

More importantly, an applicant may not introduce new matter into an application after its filing date. Although an applicant may submit a substitute specification or substitute drawings to correct informalities (i.e., MPEP 1.125), these substitutes will be denied entry to the extent they contain new matter. It is clear that the entirely new specification, claims and drawings applicant seeks to enter into application No. 09/682,685 are new matter. In fact, petitioner does not contend that the subject matter of the substitute application papers is not new matter.

The requirement that the filing date of an application be the date of receipt of the specification, including at least one claim and any required drawing is a requirement of the statutes and cannot be waived. Additionally, the statutory provision, 35 U.S.C. 132, also provides that no amendment shall add new matter into an invention, and cannot be waived.

Even if these requirements could be waived, an error, such as when a party attempting to file an application makes an avoidable mistake when depositing the papers, will not be considered an extraordinary circumstance warranting waiver of the regulations under §1.183. Likewise, such a situation, does not merit suspension of the rules. Section 22 of title 35 of the United States Code expressly provides for electronic filing of documents. However, this specific filing error is not provided for in the regulations. Yet, no regulation can be suspended in a manner that contravenes the statutes (i.e., to in effect allow the Commissioner to waive statutory requirements).

Furthermore, pursuant to MPEP §503, the application as filed on October 5, 2001 was entitled to a filing date and will not be returned to applicant even if requested. See 37 CFR 1.59. The fact that the error occurred in electronically filing this application does not change this conclusion. Additionally, petitioner's request comes after the processing of the fee on October 9, 2001, is not accompanied by a petition under §1.183, and does not include an express abandonment. Thus, 37 CFR 1.26(a) precludes refund of the application filing fee.

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[2] 201.09 Substitute Application

The use of the term "Substitute" to designate any application which is in essence the duplicate of an application by the same applicant abandoned before the filing of the later application, finds official recognition in the decision Ex parte Komenak, 1940 C.D. 1, 512 O.G. 739 (Comm'r Pat. 1940). Current practice does not require applicant to insert in the specification reference to the earlier application; however, attention should be called to the earlier application. The notation on the file wrapper (see MPEP § 202.02) that one application is a "Substitute" for another is printed in the heading of the patent copies. See MPEP § 202.02. As is explained in MPEP § 201.11, a "Substitute" does not obtain the benefit of the filing date of the prior application. Use form paragraph 2.07 to remind applicant of possible substitute status.

CONCLUSION

The request to file a substitute patent application, which is being treated as a request to retain the original filing date of October 5, 2001, but to enter a new specification, claims and drawings as the original application disclosure, is **DISMISSED**.

The request for refund of claim fees is **DENIED**[3].

The application papers filed February 28, 2002, have been removed from the file jacket of application No. 09/682,685, placed in their own file jacket and assigned application No. 10/042,724.

Application No. 09/682,685 is being returned to the examiner for examination in due course, absent the filing of an express abandonment.

Application No. 10/042,724 is being forwarded to the Office of Initial Patent Examination for preexamination processing with a filing date of February 28, 2002. All future correspondence concerning this application should be directed to application No. 10/042,724. (An IDS was filed June 26, 2002 and made of record in application No. 09/682,685).

Telephone inquiries related to this decision may be directed to Petitions Attorney Nancy Johnson at 703-305-0309.

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

[3] The Office mailed to applicant a letter dated July 25, 2002 specifically denying the refund request in the amount of $138.

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Paper No. 4

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OFFICE OF PETITIONS

In re Application of
Pan, et al.
Application No. 10/260,006
Filed: February 28, 2002
Title: System and Method of Imaging Using a Variable Speed For Thorax Imaging

DECISION ON PETITION

This is in response to the "Petition to Accord Application Serial Number and Filing Date under 37 CFR § 1.182," filed December 12, 2002.

Petitioner states that on August 5, 2002, the Office of Petitions mailed a decision on petition[1], in which, the above-identified application was assigned application No. 10/042,724, and forwarded to the Office of Initial Patent Examination (OIPE) for pre-examination processing with a filing date of February 28, 2002. However, petitioner has yet to receive a filing receipt for application No. 10/042,724. Further, upon contacting OIPE, petitioner was advised that no application No. 10/042,724 exists. Accordingly, the instant petition was filed to assign an application number and accord a filing date to the instant application.

It is confirmed that the undersigned did mail a decision on petition according the above-identified application a serial number and filing date as stated by petitioner. However, neither a search of the physical (to the extent feasible) or of the electronic records of the Office has revealed the existence of an application file bearing this serial number and filing date. Application No. 10/042,724 is not an active application number. It is clear that an error occurred in the processing of the papers that were to be assigned application No. 10/042,724.

In view thereof, the petition is **GRANTED**. Given the basis for granting this petition, the petition fee is subject to refund. The petition fee, though authorized, will not be charged to petitioner's Deposit Account.

The application previously assigned application No. 10/042,724 in the decision mailed August 5, 2002, is now assigned application No. 10/260,006 with a filing date of February 28, 2002. Further, the application has been hand-delivered to the Office of Initial Patent Examination for entry into the records of the Office and creation of a filing receipt. Any future correspondence regarding this application should be directed to application No. 10/260,006, not 10/042,724.

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[1] A copy of this decision has been made of record in application No. 10/260,006 (the newly assigned application number).

Should applicant ever receive an official filing receipt or other Office actions for application No. 10/042,724, applicant should contact the Office and request merging of the file of application No. 10/042,724 into the file of application No. 10/260,006. Such a request should be accompanied by a copy of this decision.

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Patricia Faison-Ball
for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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In re Application of Pan et al. :
Application No. 10/260,006 : Decision on Petition
Filing Date: February 28, 2002 :
Attorney Docket No. GEMS8081.099 :

In re Application of Pan et al. :
Application No. 10/042,724 : Decision on Petition
Filing Date: February 28, 2002 :
Attorney Docket No. GEMS8081.099 :

This is a decision on the petition under 37 CFR 1.181 filed July 31, 2006.

The petition is **granted**.

Petitioner requests the Office merge application nos. 10/042,724 and 10/260,006.

Based on the evidence supplied, it is concluded, in this particular case, that the existence of duplicate applications is the result of Office error. Therefore, it is appropriate to merge the files.

Since application no. 10/260,006 has been examined, the file of application no. 10/042,724 will be merged into the file of application No. 10/260,006.

The Notice to File Missing Parts mailed November 30, 2004, and the Notice of Abandonment mailed January 25, 2006, for application no. 10/042,724 are withdrawn and vacated.

All future correspondence concerning this application should be directed to application No. 10/260,006.

The Office of Initial Patent Examination will be informed of the instant decision and will take steps to merge the file of application no. 10/042,724 with the file of application no. 10/260,00, and to ensure application no. 10/042,724 is no longer shown as an active application number.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

13 JUN 2006

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In re Application of	:	
BUTORA, et al.	:	
U.S. Application No.: 10/509,856	:	DECISION ON PETITION
PCT No.: PCT/US04/11463	:	
Int. Filing Date: 14 April 2004	:	UNDER 37 CFR 1.182
Priority Date: 17 April 2003	:	
Attorney Docket No.: 21240YPI	:	
For: HETEROCYCLIC CYCLOPENTYL TETRAHYDROISOQUINOLINE AND TETRA-HYDROPYRIDOPYRIDINE MODULATORS OF CHEMOKINE RECEPTOR ACTIVITY	:	

This decision is issued in response to applicants' "Petition Under 37 CFR § 1.182 To Create New Application Under 35 U.S.C. § 111(a)" filed 04 January 2006.

BACKGROUND

On 14 April 2004, applicants filed international application PCT/US04/11463, which claimed a priority date of 17 April 2003 and designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 17 October 2005.

On 15 October 2004, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a Preliminary Amendment. These materials were assigned U.S. application number 10/509856. The application was created as a national stage of PCT/US04/11463 filed under 35 U.S.C. 371.

Although the amendment filed 15 October 2004 did not expressly state that it included new subject matter, the present petition states that the amended specification filed by applicants includes additional matter that was not disclosed in the international application.

On 04 January 2006, applicants filed the "Petition Under 37 CFR § 1.182 To Create New Application Under 35 U.S.C. § 111(a)" considered herein. The petition requests that the present application be treated as a filing under 35 U.S.C. 111(a) so as to provide the added subject matter

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disclosed in the 15 October 2004 filing with a filing date of 15 October 2004.

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted ... must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, section 1893.03(a) of the MPEP states the following:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

Applicants' original Transmittal Letter, filed 15 October 2004, specifically identified the accompanying submission as a submission to enter the national stage under 35 U.S.C. 371. No contradictory instructions were submitted. Accordingly, application 10/509,856 was appropriately created as a national stage of PCT/US04/11463 filed under 35 U.S.C. 371.

However, as noted above, the present petition states that the application (i.e., preliminary amendment) filed with the 15 October 2004 submission included additional subject matter not supported by the original disclosure of the international application. Subject matter beyond that disclosed in the international application cannot be added to a national stage application. See 35 U.S.C. 132(a); PCT Article 41(2).

In light of the above, applicants have submitted a petition under 37 CFR 1.182 to have the submission filed 15 October 2004 treated as an application filed under 35 U.S.C. 111(a). Petitioner states that it was applicants' intention to file the 15 October 2004 submission as a continuation-in-part application of the international application, rather than as a national stage submission; that such error was inadvertent; and that the requested relief is necessary to preserve the filing date of the newly added subject matter. The petition included the required petition fee and authorizes a charge to Deposit Account No. 13-2755 for any required fees.

The petition is granted as follows. The "preliminary amendment," which includes a specification and claims, filed 15 October 2004 will be treated as a separate U.S. application filed under 35 U.S.C. 111(a). This application has been assigned U.S. application number 10/260,008 and is accorded a filing date of 15 October 2004.

Applicants are advised to consider the requirements under 37 CFR 1.78 for claiming

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benefit of the prior filed international and provisional applications, should the benefit of such applications be desired.

Application number 10/509,856 will continue to be processed as a national stage application under 35 U.S.C. 371.

Any period of adjustment to the term of the patent under 35 U.S.C. 154(b)(May 29,2000) in application number 10/260,008 may be reduced by the period of time beginning on the filing date accorded under 35 U.S.C. 111(a) and ending on the mailing date of this decision.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **GRANTED** to the extent that the substitute specification filed 15 October 2004 with the national stage papers will be removed from the application file of 10/509,856 and will be treated as a separate U.S. application filed under 35 U.S.C. 111(a). This separate application has been assigned U.S. application number 10/260,008 and is accorded a filing date of 15 October 2004.

Application number 10/509,856 will continue to be processed as a national stage application under 35 U.S.C. 371. A copy of this decision will be placed in application number 10/260,008.

Deposit Account No. 13-2755 will be charged the required filing fee for application number 10/260,008.

Application number 10/260,008 is being referred to the Office Of Initial Patent Examination for processing as an application filed under 35 U.S.C. 111(a) having a filing date of 15 October 2004.

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Mail Date: 04/21/2010

Applicant	: Gabor Butora	: DECISION ON REQUEST FOR
Patent Number	: 7598243	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/260,008	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1389** 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

Mailed: AUG 16 2004

WK
Paper Number __

In re application of
James A. Kendrick et al.
Serial No. 10/260,010
Filed: March 11, 2003
For: CONTINUOUS SLURRY POLYMERIZATION VOLATILE REMOVAL

DECISION ON PETITION

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed June 4, 2003, and PETITION TO COMMISSIONER UNDER 37 C.F.R. 1.181 requesting supervisory review by the Commissioner, filed July 30, 2004. The petition filed June 4, 2003 has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration. The fee for the petition filed June 4, 2003 will be charged to Deposit Account 19-0089. There is no fee for the petition filed July 30, 2004.

DECISION

Petitioner requests that the Supplemental Information Disclosure Statement (SIDS) filed June 4, 2003 be expunged and that the documents be appropriately disposed of in accordance with 37 CFR 1.59. Each of the criteria for granting the request has been satisfied, see the MPEP 724.05.

The petition is **GRANTED.**

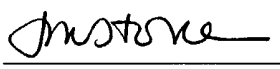
Section 1.59 has been amended to eliminate references to returning documents that have been expunged to recognize that, with electronic Official files, there will be nothing to return when a paper is expunged.

The Office is capturing electronic images of all documents that form the Official file. Where the image is generated from a physical source document, the originating document may be disposed of once the electronic image accuracy is verified. The paper source document will eventually be destroyed under a United States National Archives and Records Administration (NARA) approved schedule. Therefore, if a document is to be expunged from the record, the only operation that will be required will be removal of the image from the Official file.

Paragraph (a)(1) of §1.59 has been amended by deleting the phrase "and returned" from the first sentence, and deleting the second sentence. Paragraph (b) of §1.59 has been amended by deleting the phrase "and return" from each of the first and second sentences. The Office will

continue to provide notice in the Official file that a paper has been expunged and the Office will send a decision to the applicant notifying the applicant that the paper has been expunged.

The image of the document has been removed from the Official file.



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

Abraham Hershovitz
Greenblum & Bernstein, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191

Hershovitz & Associates
Patent Agency
1725 I Street, NW
Suite 300
Washington, DC 20006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG 26 2004

WK

Mailed:

Paper Number __

In re application of :
James A. Kendrick et al. : DECISION ON
Serial No. 10/260,011 : PETITION
Filed: March 11, 2003 :
For: CONTINUOUS SLURRY POLYMERIZATION :
VOLATILE REMOVAL :

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed June 4, 2003, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration. The fee for the petition filed June 4, 2003 will be charged to Deposit Account 19-0089.

DECISION

Petitioner requests that the Supplemental Information Disclosure Statement (SIDS) filed June 4, 2003 be expunged and that the documents be appropriately disposed of in accordance with 37 CFR 1.59. Each of the criteria for granting the request has been satisfied, see the MPEP 724.05.

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 Office is capturing electronic images of all documents that form the Official file. Where the image is generated from a physical source document, the originating document may be disposed of once the electronic image accuracy is verified. The paper source document will eventually be destroyed under a United States National Archives and Records Administration (NARA) approved schedule. Therefore, if a document is to be expunged from the record, the only operation that will be required will be removal of the image from the Official file.

Paragraph (a)(1) of §1.59 has been amended by deleting the phrase ''and returned '' from the first sentence, and deleting the second sentence. Paragraph (b) of §1.59 has been amended by deleting the phrase ''and return '' from each of the first and second sentences. The Office will continue to provide notice in the Official file that a paper has been expunged and the Office will send a decision to the applicant notifying the applicant that the paper has been expunged.

10/260,011

The image of the document has been removed from the Official file.

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

Abraham Hershovitz
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1950 Roland Clarke Place
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UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Igor Troitski
853 Arrowhead Trail
Henderson, NV 89015

COPY MAILED

MAR 1 8 2003

OFFICE OF PETITIONS

In re Application of
Igor Troitski
Application No. 10/260,012
Filed: October 31, 2002
For: LASER-COMPUTER GRAPHICS SYSTEM FOR GENERATING PORTRAIT AND 3-D SCULPTURE REPRODUCTIONS INSIDE OPTICALLY TRANSPARENT MATERIAL

: DECISION GRANTING
: PETITION

This is a decision on the petition filed December 12, 2002, requesting, in effect, that the paper entitled "REQUEST FOR A DIVISIONAL APPLICATION", deposited October 31, 2002, based on prior application No. 09/354,236, be treated as a divisional application under 37 CFR 1.53(b), rather than as a Continued Prosecution Application (CPA) under 37 CFR 1.53(d), and be accorded a filing date of October 31, 2002. The petition is properly treated as a petition under 37 CFR 1.182.

A request for a divisional application of prior application No. 09/354,236 was deposited on October 31, 2002. The request included an amendment adding claims 21-33 and was accompanied by an executed declaration, a statement claiming small entity status, and the $370.00 filing fee, but the request did not include a specification or drawings. Because of the notation "Box CPA", the request for a divisional application was treated as a request for a continued prosecution application (CPA) under 37 CFR 1.53(d) and placed in the file of prior application No. 09/354,236.

However, the issue fee was paid in the prior application on October 21, 2002. Since the issue fee was paid before the CPA request was filed, the CPA request was improper.

On December 12, 2002, the present petition and the $130.00 petition fee were filed. Petitioner requests, in effect, that the CPA request deposited October 31, 2002, be treated as a divisional application filed under 37 CFR 1.53(b). The petition was accompanied by a specification and a copy of the drawings from the prior application. A review of the specification submitted with the petition, however, reveals that it is not a true copy of the specification of the prior application.

On February 14, 2003, a preliminary amendment was filed.

On March 3, 2003, in response to a request from the undersigned, a copy of the specification of the prior application was filed.

The petition is granted.

The divisional application under 37 CFR 1.53(b) filed on October 31, 2002, has been assigned application No. 10/260,012. The papers filed October 31, 2002, have been removed from application No. 09/354,236 and have been placed in application No. 10/260,012, along with the papers filed on December 12, 2002, February 14, 2003, and March 3, 2003. All further correspondence related to the divisional application should be directed to application No. 10/260,012.

The specification submitted with the petition on December 12, 2002, will not be used in the processing and examination of the divisional application.

After mailing of this decision, Office records will be corrected to show that the $370.00 basic filing fee paid on October 31, 2002, was paid in application No. 10/260,012, not in application No. 09/354,236. The $130.00 petition fee filed December 12, 2002, will also be applied to application No. 10/260,012.

The application will then be forwarded to Initial Patent Examination Division for further processing as a divisional application of prior application No. 09/354,236, filed under 37 CFR 1.53(b), not under 37 CFR 1.53(d), with a filing date of October 31, 2002, using the declaration filed October 31, 2002, the copy of the drawings supplied on December 12, 2002, and the copy of the specification supplied on March 3, 2003.

Telephone inquiries related to this decision 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IGOR TROITSKI
6971 DANCING CLOUD AVE
HENDERSON, NV 98011-5009

COPY MAILED

JUN 0 9 2008

In re Application of Troitski :
Application No. 10/260,012 : Decision on Petition
Filing Date: October 31, 2002 :
For: Laser-Computed Graphics System :
For Generating Portrait and 3-D :
Sculpture Reproductions Inside :
Optically Transparent Material :

This is a decision on the petition filed January 25, 2008, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

The Office mailed a Notice of Allowance and a Notice of Allowability on December 7, 2006. Both Notices set a three-month period of time for reply.

The Notice of Allowance required payment of the issue fee and publication fee. The issue fee and publication fee were filed December 21, 2006.

The Notice of Allowability required the submission of corrected drawings. The Office did not receive corrected drawings. As a result, the application became abandoned on March 8, 2007.

A Notice of Abandonment was mailed April 5, 2007.

The instant petition requests the Office withdraw the holding of abandonment.

The Notice of Allowability required the submission of corrected drawings. The petition states, "Applicant did not receive any notes to correct the drawings between 12-07-06 and 04-05-07." Petitioner appears to contend petitioner never received the Notice of Allowability.

Petitioner has failed to prove non-receipt of the Notice of Allowability.

In the absence of any irregularity in the mailing of the Notice of Allowability, there is a strong presumption that the Notice was properly mailed with the Notice of Allowance. Petitioner states the Notice of Allowance was received.

In order to overcome the presumption the Notice of Allowability was mailed with the Notice of Allowance, petitioner must establish the chance the Notice of Allowability was not mailed is greater than the chance the Notice was lost after delivery to the address of record.

The current evidence of record is insufficient to establish non-receipt of the Notice of Allowability.

Any request for reconsideration should fully discuss all facts supporting petitioner's apparent assertion that the Notice of Allowability was never received. When possible, a copy of documentation demonstrating an action was not taken should be supplied.

Any request for reconsideration should ensure all the following matters are addressed.

(1) Petitioner should specifically identify all papers received with the Notice of Allowance.

(2) Petition should state, if the Notice of Allowability had been received, would the Notice have been place in a specific location such as a file being kept for all matters involving the application. If yes, has petitioner searched the location/file to ensure the Notice is not present?

(3) If the Notice of Allowability had been received, would a written entry have been made in one or more locations? For example, would an entry have been made on the outside of a file? Would an entry have been made on a calendar in order to ensure the due date for responding to the Office action would not be missed? A copy of any papers where the Notice would have been entered if the Notice had been received should be supplied to the Office.

(4) Upon receipt of the Notice of Allowability, would any electronic records have been made or altered? For example, would an entry have been made into a docketing system or electronic calendar in order to ensure the due date to respond to the Notice would not be missed? A copy of a print-out of all papers where the Notice would have been entered if the Notice had been received should be supplied to the Office.

If the Notice of Allowability was received, or petitioner cannot provide sufficient evidence to demonstrate non-receipt of the Notice, petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (corrected drawings), the required petition fee ($770 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

A copy of a blank petition under 37 CFR 1.137(b) form is enclosed for petitioner's convenience. A PDF "fillable" version of the form can be found at:
http://www.uspto.gov/web/forms/sb0064_fill.pdf.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted.

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosures: Copy of the Notice of Allowability, including attachments mailed with the Notice.
Form PTO/SB/64 for petitions under 37 CFR 1.137(b)
Privacy Act Notice

Notice of Allowability	Application No.	Applicant(s)	
	10/260,012	TROITSKI, IGOR	
	Examiner	Art Unit	
	Que T. Le	2878	

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

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

1. ☒ This communication is responsive to *the preliminary amendment filed 2/14/03*.

2. ☒ The allowed claim(s) is/are *14-20*.

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

   * Certified copies not received: _____.

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

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

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

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

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

Attachment(s)

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

QUE TAN LE
PRIMARY EXAMINER

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

In claim 1, on line 7, "a distance" has been inserted after "by". On line 10, "apart" has been inserted after "spaced"; and on line 14, "being" has been inserted before "viewed".

The following is an examiner's statement of reasons for allowance: The prior art fails to teach a system for producing an image inside an object which is viewable therethrough, among other features, comprising: a basic image generator for generating a basic image having at least two of gray shades; a sub-image generator for generating a number of sub-images corresponding to the number of gray shades; an auxiliary image generator for determining a number of auxiliary images each having one or more points spaced apart by a distance greater than a first minimum distance for which failure of the object may occur; and a laser beam element for generating the auxiliary images each image having one or more etch points positioned in a plane in the object and spaced apart by a distance no less than the first minimum distance, the etch points having an area of destruction in the object caused by the emitted laser light, the auxiliary images lying in parallel planes spaced apart by no less than a second

minimum distance and when viewed in a direction generally perpendicular thereto forming a reproduction of the basic image.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

I) Zhang et al 6,614,429 disclose a system and method for modeling a three-dimensional object having means for digitally reconstructing the object.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Que T. Le whose telephone number is (571) 272-2438.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Epps Georgia, can be reached on (571) 272-2328. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Que T. Le
Primary Examiner
Art Unit 2878

Form PTO 948 (Rev. 8-98) U.S. DEPARTMENT OF COMMERCE - Patent and Trademark Office Application No. Troitski

NOTICE OF DRAFTSPERSON'S PATENT DRAWING REVIEW

The drawing(s) filed (insert date) 10/14/04 are:

A. ☐ approved by the Draftsperson under 37 CFR 1.84 or 1.152.

B. ☑ objected to by the Draftsperson under 37 CFR 1.84 or 1.152 for the reasons indicated below. The Examiner will require submission of new, corrected drawings when necessary. Corrected drawing must be submitted according to the instructions on the back of this notice.

1. DRAWINGS. 37 CFR 1.84(a): Acceptable categories of drawings: Black ink. Colors.
   - ____ Color drawings are not acceptable until petition is granted. Fig(s) ____
   - ____ Pencil and non black ink not permitted. Fig(s) ____
2. PHOTOGRAPHS. 37 CFR 1.84 (b)
   - ____ 1 full-tone set is required. Fig(s) ____
   - ____ Photographs not properly mounted (must use bristol board or photographic double-weight paper). Fig(s) ____
   - ____ Poor quality (half-tone). Fig(s) ____
3. TYPE OF PAPER. 37 CFR 1.84(c)
   - ____ Paper not flexible, strong, white, and durable. Fig(s) ____
   - ____ Erasures, alterations, overwritings, interlineations, folds, copy machine marks not accepted. Fig(s) ____
   - ____ Mylar, vellum paper is not acceptable (too thin). Fig(s) ____
4. SIZE OF PAPER. 37 CFR 1.84(f): Acceptable sizes:
   - ____ 21.0 cm by 29.7 cm (DIN size A4)
   - ____ 21.6 cm by 27.9 cm (8 1/2 x 11 inches)
   - ____ All drawing sheets not the same size. Sheet(s) ____
   - ____ Drawings sheets not an acceptable size. Fig(s) ____
5. MARGINS. 37 CFR 1.84(g): Acceptable margins:

   Top 2.5 cm Left 2.5cm Right 1.5 cm Bottom 1.0 cm
   SIZE: A4 Size

   Top 2.5 cm Left 2.5 cm Right 1.5 cm Bottom 1.0 cm
   SIZE: 8 1/2 x 11

   Margins not acceptable. Fig(s) ____
   ____ Top (T) ____ Left (L)
   ____ Right (R) ____ Bottom (B)
6. VIEWS. 37 CFR 1.84(h)
   REMINDER: Specification may require revision to correspond to drawing changes.
   Partial views. 37 CFR 1.84(h)(2)
   - ____ Brackets needed to show figure as one entity. Fig(s) ____
   - ____ Views not labeled separately or properly. Fig(s) ____
   - ____ Enlarged view not labeled separately or properly. Fig(s) ____
7. SECTIONAL VIEWS. 37 CFR 1.84 (h)(3)
   - ____ Hatching not indicated for sectional portions of an object. Fig(s) ____
   - ____ Sectional designation should be noted with Arabic or Roman numbers. Fig(s) ____
8. ARRANGEMENT OF VIEWS. 37 CFR 1.84(i)
   - ____ Words do not appear on a horizontal, left-to-right fashion when page is either upright or turned so that the top becomes the right side, except for graphs. Fig(s) ____
9. SCALE. 37 CFR 1.84(k)
   - ____ Scale not large enough to show mechanism without crowding when drawing is reduced in size to two-thirds in reproduction. Fig(s) ____
10. CHARACTER OF LINES, NUMBERS, & LETTERS. 37 CFR 1.84(l)
    - ☑ Lines, numbers & letters not uniformly thick and well defined, clean, durable, and black (poor line quality). Fig(s) 1 - 28
11. SHADING. 37 CFR 1.84(m)
    - ____ Solid black areas pale. Fig(s) ____
    - ____ Solid black shading not permitted. Fig(s) ____
    - ____ Shade lines, pale, rough and blurred. Fig(s) ____
12. NUMBERS, LETTERS, & REFERENCE CHARACTERS. 37 CFR 1.84(p)
    - ____ Numbers and reference characters not plain and legible. Fig(s) ____
    - ____ Figure legends are poor. Fig(s) ____
    - ____ Numbers and reference characters not oriented in the same direction as the view. 37 CFR 1.84(p)(1) Fig(s) ____
    - ____ English alphabet not used. 37 CFR 1.84(p)(2) Figs ____
    - ____ Numbers, letters and reference characters must be at least .32 cm (1/8 inch) in height. 37 CFR 1.84(p)(3) Fig(s) ____
13. LEAD LINES. 37 CFR 1.84(q)
    - ____ Lead lines cross each other. Fig(s) ____
    - ____ Lead lines missing. Fig(s) ____
14. NUMBERING OF SHEETS OF DRAWINGS. 37 CFR 1.84(t)
    - ____ Sheets not numbered consecutively, and in Arabic numerals beginning with number 1. Sheet(s) ____
15. NUMBERING OF VIEWS. 37 CFR 1.84(u)
    - ____ Views not numbered consecutively, and in Arabic numerals, beginning with number 1. Fig(s) ____
16. CORRECTIONS. 37 CFR 1.84(w)
    - ____ Corrections not made from prior PTO-948 dated ____
17. DESIGN DRAWINGS. 37 CFR 1.152
    - ____ Surface shading shown not appropriate. Fig(s) ____
    - ____ Solid black shading not used for color contrast. Fig(s) ____

COMMENTS

BEST AVAILABLE COPY

PTO/SB/64 (01-08)
Approved for use through 06/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ Signature	_____ Date
_____ Typed or printed name	_____ Registration Number, if applicable
_____ Address	_____ Telephone Number
_____ Address	

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O: Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____ Date	_____ Signature
	_____ Typed or printed name of person signing certificate

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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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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IGOR TROITSKI
6971 DANCING CLOUD AVE
HENDERSON, NV 98011-5009

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DEC 19 2008

OFFICE OF PETITIONS

In re Application of Troitski :
Application No. 10/260,012 :
Filing Date: October 31, 2002 :
For: Laser-Computed Graphics System For Generating Portrait and 3-D Sculpture Reproductions Inside Optically Transparent Material :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed August 1, 2008, to revive the above-identified application.

The petition is **granted**.

The Office mailed a Notice of Allowance and a Notice of Allowability on December 7, 2006. Both Notices set a three-month period of time for reply. The Notice of Allowance required payment of the issue fee and publication fee. The issue fee and publication fee were filed December 21, 2006. The Notice of Allowability required the submission of corrected drawings. The Office did not receive corrected drawings. As a result, the application became abandoned on March 8, 2007. A Notice of Abandonment was mailed April 5, 2007.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) the reply required to the outstanding Office action or notice, unless previously filed,
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted a reply to the Notice of Allowability in the form of corrected drawings. Petitioner has submitted the required petition fee of $770. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Data Management, Patent Publication Branch, will be informed of the instant decision and the application will be issued as a patent in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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#3 Paper No.

PHILIP R. WARN
WARN, BURGESS & HOFFMAN, P.C.
P.O. bOX 70098
ROCHESTER HILLS, MI 48307

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APR 1 0 2003

OFFICE OF PETITIONS

In re Application of :
Mark A. Duda, et al. :
Application No. 09/939,305 :
Filed: August 24, 2001 :
Attorney Docket No. BWI-00057 :

In re Application of :
Mark A. Duda, et al. :
Application No. 10/260,017 :
Filed: December 6, 2002 :
Atty Docket No. DKT 00003B (VWI-00057CPA):

DECISION GRANTING PETITION

This is a decision on the petition filed March 5, 2003, requesting that a Continued Prosecution Application (CPA) deposited December 6, 2002, based on prior application No. 09/939,305 be treated as an application under 37 CFR 1.53(b) and accorded a filing date of December 6, 2002.

A review of the record discloses that application papers addressed to Box CPA included, inter alia, (1) a request for a Continued Prosecution Application (CPA)under 37 CFR 1.53(b) of prior application No. 09/939,305, (2) a complete specification and drawings, and (3) an unexecuted declaration under 37 CFR 1.63. However, in view of the conflicting requests, the papers deposited December 6, 2002, were treated as having been improperly filed under 37 CFR 1.53(d).

Accordingly, in response to a Notice of Improper CPA Filing mailed January 3, 2003, the present petition was filed. Petitioners request, in effect, that the request for a CPA under 37 CFR 1.53(d) be disregarded and that the application be treated as a continuation application under 37 CFR 1.53(b), using the specification and drawings filed December 6, 2002.

The petition is GRANTED.

Applicants are given TWO MONTHS from the date of this decision to file an oath or declaration complying with 37 CFR 1.63 and to pay the $130.00 surcharge set forth in 37 CFR 1.16(e). This time period may be extended pursuant to 37 CFR 1.136(a). The oath or declaration should identify the specification to which it is directed by reference to the above application number and filing date. The response should be directed to the attention of Initial Patent Examination Division (OIPE). Failure to respond will result in the abandonment of this application.

The original request for a CPA application, including the accompanying papers, and the petition filed March 5, 2003, have been removed from the file of the prior application and have been assigned application No. 10/260,017. All future correspondence concerning the continuing application filed December 6, 2002 should be directed to application No. 10/260,017. A copy of the CPA request filed

December 6, 2002 and the petition filed March 5, 2003 have been made in order to make the record whole in Application No. 09/939,305. The CPA filing fees paid on December 6, 2002 in Application No. 09/939,305 will be reapplied to Application No. 10/260,017.

Prior application No. 09/939,305 will then be forwarded to the Files Repository.

Application No. 10/260,017 is being forwarded to OIPE to await the response required herein and for further processing with a filing date of December 6, 2002, as a continuation application under 37 CFR 1.53(b), using the specification and drawings filed December 6, 2002 and the declaration under 37 CFR 1.63 filed in response to this decision.

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

Filed
12/6/

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PHILIP R. WARN
WARN, BURGESS & HOFFMAN, P.C.
P.O. bOX 70098
ROCHESTER HILLS, MI 48307

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OFFICE OF PETITIONS

In re Application of :
Mark A. Duda, et al. :
Application No. 09/939,305 :
Filed: August 24, 2001 :
Attorney Docket No. BWI-00057 :

In re Application of :
Mark A. Duda, et al. :
Application No. 10/260,017 :
Filed: December 6, 2002 :
Atty Docket No. DKT 00003B (VWI-00057CPA): :

DECISION GRANTING PETITION

This is a decision on the petition filed March 5, 2003, requesting that a Continued Prosecution Application (CPA) deposited December 6, 2002, based on prior application No. 09/939,305 be treated as an application under 37 CFR 1.53(b) and accorded a filing date of December 6, 2002.

A review of the record discloses that application papers addressed to Box CPA included, inter alia, (1) a request for a Continued Prosecution Application (CPA)under 37 CFR 1.53(b) of prior application No. 09/939,305, (2) a complete specification and drawings, and (3) an unexecuted declaration under 37 CFR 1.63. However, in view of the conflicting requests, the papers deposited December 6, 2002, were treated as having been improperly filed under 37 CFR 1.53(d).

Accordingly, in response to a Notice of Improper CPA Filing mailed January 3, 2003, the present petition was filed. Petitioners request, in effect, that the request for a CPA under 37 CFR 1.53(d) be disregarded and that the application be treated as a continuation application under 37 CFR 1.53(b), using the specification and drawings filed December 6, 2002.

The petition is GRANTED.

Applicants are given TWO MONTHS from the date of this decision to file an oath or declaration complying with 37 CFR 1.63 and to pay the $130.00 surcharge set forth in 37 CFR 1.16(e). This time period may be extended pursuant to 37 CFR 1.136(a). The oath or declaration should identify the specification to which it is directed by reference to the above application number and filing date. The response should be directed to the attention of Initial Patent Examination Division (OIPE). Failure to respond will result in the abandonment of this application.

The original request for a CPA application, including the accompanying papers, and the petition filed March 5, 2003, have been removed from the file of the prior application and have been assigned application No. 10/260,017. All future correspondence concerning the continuing application filed December 6, 2002 should be directed to application No. 10/260,017. A copy of the CPA request filed

December 6, 2002 and the petition filed March 5, 2003 have been made in order to make the record whole in Application No. 09/939,305. The CPA filing fees paid on December 6, 2002 in Application No. 09/939,305 will be reapplied to Application No. 10/260,017.

Prior application No. 09/939,305 will then be forwarded to the Files Repository.

Application No. 10/260,017 is being forwarded to OIPE to await the response required herein and for further processing with a filing date of December 6, 2002, as a continuation application under 37 CFR 1.53(b), using the specification and drawings filed December 6, 2002 and the declaration under 37 CFR 1.63 filed in response to this decision.

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

11-30-04

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Conley 05-14-03

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Paper No. 8

CHEVRON PHILLIPS CHEMICAL COMPANY LP
LAW DEPARTMENT - IP
P.O BOX 4910
THE WOODLANDS TX 77387-4910

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MAY 08 2003
OFFICE OF PETITIONS

In re Patent No. 6,465,391
Issue date: October 15, 2002
Application No. 09/643,266
Filed: August 22, 2000
Attorney Docket No. 33825USI

DECISION GRANTING
PETITION

This is a decision on the petition under 37 CFR 1.181 filed on December 10, 2002, requesting clarification of status. The petition will be treated under 37 CFR 1.182 as a request to convert the divisional Continued Prosecution Application (CPA) filed July 1, 2002 and based on prior application No. 09/643,266 (issued as Patent No. 6,465,391 on October 15, 2002) be treated as a divisional application under 37 CFR 1.53(b), rather than under 37 CFR 1.53(d), and be accorded a filing date of July 1, 2002.

A request for a CPA based on prior application No. 09/643,266 was deposited on July 1, 2002.

The CPA request was filed while the prior application was still pending and was accompanied by a specification, drawings, a copy of the signed declaration filed in the prior application, a preliminary amendment, and the filing fee. Petitioner utilized a patent application transmittal for an application filed under 37 CFR 1.53(b), but the application transmittal letter stated "REQUEST UNDER 37 CFR 1.53(b) FOR FILING DIVISIONAL APPLICATION."

Petitioner now states that the July 1, 2002 application was mistakenly filed as a CPA under 37 CFR 1.53(d), when it was intended to be filed under 37 CFR 1.53(b). The Office should have processed the application as a CPA, as any ambiguity in type of application filed should be resolved in favor of a CPA when there is any evidence of a desire to file a CPA. However, the Office misplaced the July 1, 2002 filing and did not process it. Petitioner timely paid the issue fee for the above-identified application and it issued as patent no. 6,465,391 on October 15, 2002.

Processing the July 1, 2002 application as a CPA under 37 CFR 1.53(d) would not be proper because the prior application has issued as a patent.

Sua sponte, the Office will convert the July 1, 2002 CPA to a divisional application filed under 37 CFR 1.53(b).

The petition under 37 CFR 1.182 is granted. As Office error caused this situation, the petition fee for conversion will not be charged.

The divisional application papers filed on July 1, 2002 have been removed from the file of 09/643,266, and have been assigned application No. 10/260,018. **All future correspondence relating to the divisional application should be directed to application No. 10/260,018.**

After mailing of this decision, PTO records will be corrected to show that the $740.00 filing fee paid on July 1, 2002, was paid in application No. 10/260,018, not in application No. 09/643,266.

Application No. 10/260,018 will then be returned to the Office of Initial Patent Examination for further processing as a divisional application filed under 37 CFR 1.53(b), not under 37 CFR 1.53(d), with a filing date of July 1, 2002, using the copy of the specification, drawings and declaration filed on December 10, 2002.

Application No. 09/643,266 (Patent No. 6,465,391) will be returned to Files Respository.

Any inquiries related to this decision should be directed to Senior Petitions Attorney E. Shirene Willis at (703) 308-6712.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Auto-Reply Facsimile Transmission

TO: Fax Sender at 9727312289

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Date Received: 8/30/2004 3:20:42 PM [Eastern Daylight Time]
Total Pages: 8 (including cover page)

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AUG-30-2004 10:22 CONLEY & ROSE PC 9727312289 P.01

FAX TRANSMITTAL COVER SHEET

CONLEY ROSE, P.C.
5700 Granite Parkway, Suite 330
Plano, Texas 75024-6616
Telephone Number: (972) 731-2288
Fax Number: (972) 731-2289

PLEASE DELIVER THE FOLLOWING PAGES IMMEDIATELY TO:

NAME: Office of Initial Patent Examination – Filing Receipt Corrections
United States Patent and Trademark Office

FAX: (703) 746-9195

FROM: Rodney B. Carroll

DATE: August 30, 2004

RE: U.S. Patent Application Serial No. 10/260,018
Filing Date: July 1, 2002
Atty Docket: 33825US1 (4081-02201)
Request for Corrected Filing Receipt (2 pages)
Copy of Filing Receipt (2 pages)
Copy of Decision Granting Petition dated May 8, 2003 (2 pages)
Change of Correspondence Address (1 page)

Total Number of Pages (Including Cover Page): 8

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Paper No. 8

CHEVRON PHILLIPS CHEMICAL COMPANY LP
LAW DEPARTMENT - IP
P.O BOX 4910
THE WOODLANDS TX 77387-4910

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MAY 0 8 2003

OFFICE OF PETITIONS

In re Patent No. 6,465,391 :
Issue date: October 15, 2002 :
Application No. 09/643,266 : DECISION GRANTING
Filed: August 22, 2000 : PETITION
Attorney Docket No. 33825US :

This is a decision on the petition under 37 CFR 1.181 filed on December 10, 2002, requesting clarification of status. The petition will be treated under 37 CFR 1.182 as a request to convert the divisional Continued Prosecution Application (CPA) filed July 1, 2002 and based on prior application No. 09/643,266 (issued as Patent No. 6,465,391 on October 15, 2002) be treated as a divisional application under 37 CFR 1.53(b), rather than under 37 CFR 1.53(d), and be accorded a filing date of July 1, 2002.

A request for a CPA based on prior application No. 09/643,266 was deposited on July 1, 2002.

The CPA request was filed while the prior application was still pending and was accompanied by a specification, drawings, a copy of the signed declaration filed in the prior application, a preliminary amendment, and the filing fee. Petitioner utilized a patent application transmittal for an application filed under 37 CFR 1.53(b), but the application transmittal letter stated "REQUEST UNDER 37 CFR 1.53(b) FOR FILING DIVISIONAL APPLICATION."

Petitioner now states that the July 1, 2002 application was mistakenly filed as a CPA under 37 CFR 1.53(d), when it was intended to be filed under 37 CFR 1.53(b). The Office should have processed the application as a CPA, as any ambiguity in type of application filed should be resolved in favor of a CPA when there is any evidence of a desire to file a CPA. However, the Office misplaced the July 1, 2002 filing and did not process it. Petitioner timely paid the issue fee for the above-identified application and it issued as patent no. 6,465,391 on October 15, 2002.

Processing the July 1, 2002 application as a CPA under 37 CFR 1.53(d) would not be proper because the prior application has issued as a patent.

Sua sponte, the Office will convert the July 1, 2002 CPA to a divisional application filed under 37 CFR 1.53(b).

The petition under 37 CFR 1.182 is granted. As Office error caused this situation, the petition fee for conversion will not be charged.

The divisional application papers filed on July 1, 2002 have been removed from the file of 09/643,266, and have been assigned application No. 10/260,018. **All future correspondence relating to the divisional application should be directed to application No. 10/260,018.**

After mailing of this decision, PTO records will be corrected to show that the $740.00 filing fee paid on July 1, 2002, was paid in application No. 10/260,018, not in application No. 09/643,266.

Application No. 10/260,018 will then be returned to the Office of Initial Patent Examination for further processing as a divisional application filed under 37 CFR 1.53(b), not under 37 CFR 1.53(d), with a filing date of July 1, 2002, using the copy of the specification, drawings and declaration filed on December 10, 2002.

Application No. 09/643,266 (Patent No. 6,465,391) will be returned to Files Respository.

Any inquiries related to this decision should be directed to Senior Petitions Attorney E. Shirene Willis at (703) 308-6712.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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Washington, D.C. 20231
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Paper No. 23

A. JOHN PATE
PATE PIERCE & BAIRD
PARKSIDE TOWER
215 SOUTH STATE STREET, SUITE 550
SALT LAKE CITY, UTAH 84111

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OCT 1 0 2002

OFFICE OF PETITIONS

In re Application of :
Newell Ryan Moss :
Application No. 09/559,603 : ON PETITION
Filed: April 27, 2000 :
Attorney Docket No. 2782.2.6 :

This is a decision on the petition under 37 CFR 1.313(c), filed October 2, 2002, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot.**

Unfortunately, the instant petition was not received within sufficient time to avert the issuance of the above-identified application into a patent. In this regard, it is noted that the petition was mailed via Express Mail on October 2, 2002; however, the petition was not received in the deciding official's office until October 8, 2002. A petition to withdraw from issue must be received and granted prior to the date of of issuance. Petitioner's attention is directed to 37 CFR 1.313(d), which states:

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

Note also 1220 *Off. Gaz. Pat. Office* 42 (March 9, 1999), under "Patents to Issue More Quickly after Issue Fee Payment," and 1221 *Off. Gaz. Pat. Office* 14 (April 6, 1999), under "Filing of Continuing Applications, Amendments, or Petitions After Payment of Issue Fee," which states:

> In the event that it is necessary to file a petition under 37 CFR 1.313(b) [now 37 CFR 1.313(c)] to withdraw an application from issue after payment of the issue fee, the PTO strongly

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recommends that the petition be clearly marked "Petition under 37 CFR 1.313(b)" and be either:

(1) Submitted by facsimile to (703) 308-6916; or
(2) Hand-carried to the Office of Petitions.

Otherwise, it is quite possible that the petition will not be brought before the appropriate deciding official before the date the application issues as a patent.

The most common petition under 37 CFR 1.313(b) is a petition under 37 CFR 1.313(b)(5) to withdraw an application from issue for abandonment in favor of a continuing application to permit consideration of an information disclosure statement (IDS) in the continuing application. In this event, applicants are encouraged to file the petition under 37 CFR 1.313(b)(5) with a continued prosecution application (CPA) under 37 CFR 1.53 (d) by facsimile to (703) 308-6916. The petition need not be accompanied by the IDS (if the size of the IDS makes its submission by facsimile impracticable), but the petition should indicate that an IDS will be filed in the CPA if an IDS does not accompany the petition under 37 CFR 1.313(b)(5).

See also MPEP Section 1308.

Petitioner may request by way of a petition under 37 CFR 1.53(e) that the 37 CFR 1.53(d) request for a continued prosecution application be converted to a 37 CFR 1.53(b) continuing application in order to have prior art considered by the examiner. The petition to convert should be directed to the Office of Petitions and must include the filing of a complete copy of the prior application, i.e., specification, claims, and drawings, if required, and a copy of the signed oath/declaration. Information regarding the filing of a petition to convert may be obtained by calling the undersigned at (703) 305-8680.

Should petitioner choose this course of action, petitioner should include a copy of this decision with the petition under 37 CFR 1.53(e). The examiner is to make all applicable prior art rejections (not just include a statutory double patenting rejection under 35 U.S.C. § 101) based upon the information cited in the IDS, alone

or with other information of record, in the resulting application under 37 CFR 1.53(b).

The addresss appearing on the petition differs from the address of record. Further, there is no indication that petitioner herein was ever given a power of attorney in the instant case. Therefore, if petitioner herein desires to receive future correspondence or any Maintenance Fee Reminders which may be mailed in this case, a change of address and/or a fee address should be submitted. Note MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

The patented file is being forwarded to Files Repository.

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

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cc:

Bradley B. Jensen
TraskBritt, P.C.
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Salt Lake City, Utah 84110-2550

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Paper No. 2

H. DICKSON BURTON
TRASKBRITT PC
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SALT LAKE CITY, UT 84110

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MAY 19 2003

OFFICE OF PETITIONS

In re Application of :
Newell Ryan Moss :
Application No. 09/559,603 :
Filed: April 27, 2000 :
Attorney Docket No. 2782.2.6 :

AND DECISION ON PETITION

In re Application of :
Newell Ryan Moss :
Application No. 10/260,019 :
Filed: October 2, 2002 :
Attorney Docket No. 5491.1US :

This is a decision on the petition filed November 8, 2002, to convert the continued prosecution application request under 37 CFR 1.53(d) filed in the U.S. Patent and Trademark Office (USPTO) on October 2, 2002 to a continuing application under 37 CFR 1.53(b) and to accord the continuing application a filing date of October 2, 2002.

The petition is **granted**.

A request for a CPA based on prior application No. 09/559,603 was deposited on October 2, 2002, along with a petition to withdraw from issue under 37 CFR 1.313(c)(3). The issue fee was paid in the prior application on August 12, 2002. Unfortunately, the petition and the file of the prior application were not received by the appropriate official within sufficient time to avert issuance of the prior application and the prior application was patented on October 8, 2002. Accordingly, the petition to withdraw from issue filed on October 2, 2002 was dismissed as moot in a decision mailed October 10, 2002.
Since the prior application has issued as a patent, the CPA request cannot be processed as a proper CPA (or as an RCE under 37 CFR 1.114).

The present petition requests that the request for a CPA be treated as a continuation application filed under 37 CFR 1.53(b). The petition is accompanied by a specification, claims, and drawings, a preliminary amendment, revocation and power of attorney, but was not accompanied by an oath or declaration in compliance with 37 CFR 1.63.

The instant continuation application under 37 CFR 1.53(b) filed on October 2, 2002 has been assigned application No. 10/260,019. All further communications regarding this application should be directed to Application No. 10/260,019.

The CPA papers and IDS filed in the parent application have been placed in Application No. 10/260,019.

The $370 filing fee paid in the CPA on October 2, 2002, will be applied towards the filing fee for Application No. 10/260,019.

Application No. 09/559,603 is being forwarded to Files Repository.

Application No. 10/260,019 is being forwarded to Initial Patent Examination Division for processing as a continuation application under 37 CFR 1.53(b), not as a CPA under 37 CFR 1.53(d), with a filing date of October 2, 2002, using the the specification, claims, drawings and declaration supplied on November 8, 2002, and for mailing of a Notice to File Missing Parts of Nonprovisional Application requiring the submission of an oath or declaration and surcharge.

Any questions concerning this decision on petition may be directed to Frances Hicks at (703) 305-8680.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 3

ROBERT W. BECKER & ASSOCIATES
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MAY 27 2003

OFFICE OF PETITIONS

In re Application of
Fredette, et al.
Application No. 10/260,022
Filed: February 21, 2001
Attorney Docket No. Uh-fi05-11 US
For: PROCESS AND COMMUNICATION EQUIPMENT FOR ENCRYPTING E-MAIL TRAFFIC BETWEEN MAIL DOMAINS OF THE INTERNET

: DECISION GRANTING PETITION
: &
: NOTICE TO FILE MISSING PARTS
: OF NONPROVISIONAL
: APPLICATION

This is a decision on the petition entitled, "PETITION UNDER 37 CFR 1.81," filed March 5, 2003, requesting that the above-identified application be accorded an application number and a filing date of February 21, 2001. The petition will be treated under 37 CFR 1.10(e).

Petitioners request an application number and a February 21, 2001 filing date on the basis that the above-identified application was deposited in Express Mail service on February 21, 2001, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied a complete copy of petitioners' application, including a 1 page patent application transmittal form, 20 pages of specification, 5 pages of claims, 1 page of abstract, and 8 sheets of drawings. Petitioners submitted a copy of their date stamped postcard receipt showing that the Office received the papers on February 21, 2001 and assigned the papers application no. 09/763,476.

Application 09/763,476 was prosecuted by the same firm and is now a U.S. patent. Petitioners request a separate application number for the Fredette application with a filing date of February 21, 2001.

Petitioners submitted a copy of Express Mail label EL383010219US showing a date-in of February 21, 2001 with the instant petition. The same Express Mail label number is found on the original application papers. The petition, signed by Attorney Robert W. Becker, states that the original application was filed as Express Mail with the USPS on February 21, 2001. Attorney Becker states that the papers submitted with the instant petition are copies of the original application papers. Mary Ann Copas, secretary to Attorney Becker, states that she deposited a package bearing the Express Mail label EL383010219US with the USPS on February 21, 2001.

Paragraph (e) of 37 CFR 1.10 states that:

> Any person mailing correspondence addressed as set out in 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS, but not received by the Office, may petition the Commissioner to consider such correspondence as filed in the Office on the USPS deposit date, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
>
> (3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and
>
> (4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

The Office considers the date the paper or fee is shown to have been deposited as "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. In view of the above, the evidence is convincing that the above-identified application was deposited as "Express Mail" with the US Postal Service on February 21, 2001. [1]

---

[1] It appears that the two applications placed in the same Express Mail envelope on February 21, 2001 were both assigned application no. 09/763,476. A review of the file for application no. 09/763,476 reveals that there is a certificate of Express Mail for the Fredette application present. However, the actual Fredette application papers are not present.

Accordingly, the petition is granted. . No fee has been or will be filed in connection with this petition.

Regarding finances, the $710.00 filing fee and the $130.00 surcharge for filing a late declaration have been transferred from application no. 09/763,476 to the new application no. 10/260,022. However, the current filing fee due is $750.00. There is no indication that petitioners attempted to pay the filing fee when the application papers were filed on February 21, 2001. Therefore, petitioners must submit the filing fee due on the date that payment was proffered, or March 5, 2003. The filing fee due as of March 5, 2003 is $750.00.

Petitioners must submit $40.00 within TWO (2) MONTHS of the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to submit the $40.00 timely will result in abandonment of this application.

All future communications pertaining to the Fredette application should be directed to application no. 10/260,022.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of **February 21, 2001** and the mailing of a filing receipt. The copy of the original application papers submitted with the instant petition will be used for processing purposes

Any inquiries related to this decision 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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Paper No. 5

KILPATRICK STOCKTON LLP
1100 PEACHTREE ST
SUITE 2800
ATLANTA GA 30309-4530

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JUN 12 2003

OFFICE OF PETITIONS

In re Application of :
Alt, et al. :
Application No. 10/260,028 : DECISION GRANTING
Filed: May 10, 2002 : PETITION
Title: ORGANOMETALLIC FLUORENYL :
COMPOUNDS, PREPARATION, AND USE

This is a decision on the petition filed May 14, 2003, requesting that an application of Alt et al. entitled "Organometallic Fluorenyl Compounds, Preparation, and Use" (attorney docket no. 32978US10) be accorded a filing date of May 10, 2002, and assigned an application number.

The petition is **GRANTED**.

The petition included a copy of a postcard receipt bearing docket No. "32978US10" and acknowledging the filing in the Office on May 10, 2002, of a new divisional application containing, *inter alia*, 42 pages of specification, 40 pages of substitute specification, and a copy of a declaration.

The original papers identified on the postcard receipt cannot be located in the Office. However, in view of the evidence presented, it is concluded that the application was filed in the Office on May 10, 2002, and later misplaced.

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

The $740 basic filing fee and the $246 additional claims fee has been charged to Deposit Account No. 50-1629, as authorized by the Fee Transmittal Form mailed on May 10, 2002.

Since the original application papers cannot be located in the Office, the duplicate papers received May 14, 2003, will be used for examination purposes. The application has been assigned application No. 10/260,028.

Applicants should notify this office if the original papers are subsequently discovered in the Office so that the present duplicate file can be merged with the original papers and any duplicate filing fee refunded.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of May 10, 2002, using the copy of the application papers supplied on May 14, 2003.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Cliff Congo at 703-305-0272.

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions

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Lloyd G. Farr
Nelson, Mullins Riley & Scarborough
PO Box 11070
Columbia, SC 29211-1070

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AUG 1 0 2004

OFFICE OF PETITIONS

In re Application of :
Buchholz, et al. :
Application No. 10/260,030 : DECISION GRANTING PETITION
Filed: May 22, 2003 :
Attorney Docket No. 11283/09037-CON :

This is a decision on the petition filed June 30, 2004, requesting that the above-identified application be accorded a filing date of May 22, 2003.

The petition is **granted**.

The record reflects that the above-cited application was filed on May 22, 2003, as a continuation application under 37 CFR 1.53(b) after the parent application 09/954,709 was revived under 37 CFR 1.137(b) and withdrawn from issue. Although the continuation application was assigned an application number of 10/260,030, a filing date was not accorded the application. The application is noted as a continuation of 09/054,709 and is able to be viewed in the Image File Wrapper (IFW) system.

The relevant history of the application is as follows:

- A Notice of Allowance and Issue Fee Due was mailed on January 23, 2003, with a due date of April 23, 2003.
- A petition to revive was filed under 37 CFR 1.137(f) on May 22, 2003, and included the subject continuation application .
- A petition to withdraw the application was issue was filed on June 13, 2003, so that a Request for Continued Examination (RCE) filed on June 13, 2003, and an Information Disclosure Statement relative to 09/956,709 could be considered.
- The petition to revive and the petition to withdraw from issue were both granted in a decision mailed August 18, 2003. The decision acknowledged the RCE, but made no mention of the continuing application filed with the petition to revive under 37 CFR 1.137(f).
- Application 09/954,709 matured into patent number 6,652,018 on November 25, 2003.

A preliminary examination of the papers of the continuing application revealed a specification, at least one claim, and an executed declaration present on May 22, 2003, all of which are required in order for the application to be accorded a filing of May 22, 2003. The amount of $1132.00 paid by check on May 22, 2003, will be transferred from 09/954,709 to 10/260,030 for the satisfaction of filing and claim fees. Although the parent application has matured into a patent, co-pendency exists between the applications because the application 10/260,030 was filed before, the patenting, abandonment, or termination of proceedings in the parent application. See MPEP 201.11.

In light of the aforementioned, application 10/260,030 will be directed to the Office of Initial Patent Examination where it will be accorded a filing date of May 22, 2003, with original application papers filed on that date.

A copy of this petition will be placed in application file 09/954,709.

Any inquiries related to this decision should be directed to the undersigned at (703)305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/260,032	06/27/2003	2874	852	4024-4022US1	20	21	4

CONFIRMATION NO. 8495

MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, NY 10154-0053

CORRECTED FILING RECEIPT

OC000000013706435

Date Mailed: 09/02/2004

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

Applicant(s)

John Trezza, Nashua, NH;
Keith Kang, Hollis, NH;
Greg Dudoff, Amherst, NH;
Ronald Olson, Amherst, NH;

Power of Attorney:

Richard Straussman--39847

Domestic Priority data as claimed by applicant

This application is a CON of 09/896,192 06/29/2001

Foreign Applications

If Required, Foreign Filing License Granted: 07/19/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,

US10/260,032

Projected Publication Date: 10/28/2004

Non-Publication Request: No

Early Publication Request: No

Title

Multi-piece fiber optic component and manufacturing technique

Preliminary Class

385

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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/260,033	06/27/2003	2839	1080	4024-4009US1	20	29	5

CONFIRMATION NO. 8497

MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, NY 10154-0053

CORRECTED FILING RECEIPT

OC000000013798955

Date Mailed: 09/15/2004

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

Applicant(s)

John Trezza, Nashua, NH;
Keith Kang, Hollis, NH;
Greg Dudoff, Amherst, NH;
Ronald Olson, Amherst, NH;

Power of Attorney:

Richard Straussman–39847

Domestic Priority data as claimed by applicant

This application is a CON of 09/896,513 06/29/2001

Foreign Applications

If Required, Foreign Filing License Granted: 07/16/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/260,033

Projected Publication Date: 10/28/2004

Non-Publication Request: No

Early Publication Request: No

Title

Multi-piece fiber optic component and manufacturing technique

Preliminary Class

385

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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JAN 17 2003

OFFICE OF PETITIONS

In re Application of
Rupierper et al.
Application No. 09/723,510
Filed: November 28, 2000
Attorney Docket No. FA0981 US NA

In re Application of
Rupierper et al.
Application No. 10/260,038
Filed: September 11, 2002
For: PROCESS AND DEVICE FOR DETERMINING CHANGES IN LIQUID MEDIA, IN PARTICULAR COATING AGENTS UNDER SHEAR STRESS

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR § 1.182 submitted by facsimile transmission on September 25, 2002, requesting that an improper Continued Prosecution Application (CPA) under 37 CFR § 1.53(d) be treated as an application under 37 CFR § 1.53(b) and be accorded a filing date of September 11, 2002.

On April 24, 2002, the Office mailed a final Office action in application No. 09/723,510, which set a three (3) month shortened statutory period for reply. In response, on July 10, 2002, applicants filed an amendment; however, the amendment failed to place the application in condition for allowance, as indicated in the Advisory Action mailed July 25, 2002. On August 28, 2002 (certificate of mailing August 22, 2002), applicants submitted a second amendment in response to the final Office action, and a request for a one-month extension of time. On September 11, 2002, applicants filed a request for a CPA under 37 CFR § 1.53(d), accompanied by application papers including a specification, claims, declaration and power of attorney, based on prior application No. 09/723,510.[1] However, CPA practice no

[1] It is necessary for applicants to obtain an extension of time for response within the second month in order to establish continuity

longer applies to applications, other than design applications, if the prior application was filed on or after May 29, 2000. Accordingly, the CPA request was improper because the prior application was filed on or after May 29, 2000.

In the event that an applicant files a request for a CPA of a utility or plant application that was filed on or after May 29, 2000 (to which CPA practice no longer applies), the Office will automatically treat the improper CPA as a request for continued examination of the prior application (identified in the request for CPA) under new 37 CFR § 1.114. In the present case, although applicants filed a CPA in an application to which CPA practice no longer applies, the CPA satisfied the requirements of 37 CFR § 1.114 to be a proper RCE.

On September 25, 2002, applicants filed the present petition and an authorization to charge the petition fee. Applicants request that the Office not treat the improper CPA as an RCE, but rather convert the improper CPA to an application under 37 CFR § 1.53(b).

Since the complete application papers were filed on September 11, 2002, and applicants filed the present petition before an Office action was mailed in response to the RCE, the petition is proper. Accordingly, the petition is granted.

The application under 37 CFR § 1.53(b) filed on September 11, 2002, has been assigned application No. 10/260,038 The CPA request, the present petition, and the application papers have been removed from the file of application No. 09/723,510 and have been placed in application No. 10/260,038. A copy of the CPA request and the present petition will be retained in application No. 09/723,510 to complete the record therein. All further correspondence concerning the application under 37 CFR § 1.53(b) should be directed to application No. 10/260,038, not application No. 09/723,510.

The Office finance records will be corrected to show that the $740.00 filing fee was paid in application No. 10/260,038, not in application No. 09/723,510.

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between application No. 09/723,510 and the application filed September 11, 2002. Since applicants obtained a one-month extension to reply in Application No. 09/723,510 on August 28, 2002, applicants' Deposit Account, No. 50-1447, will be charged $290.00 (the difference in the fees for an extension for a response in the first and second month) in view of the authorization to charge any required fees included in the petition for extension of time filed August 28, 2002. See 37 CFR 1.136(a). Additionally, applicants' Deposit account will be charged the $130.00 petition fee in Application No. 10/260,038, as authorized.

Application No. 09/723,510 will be returned to Technology Center 2800 for consideration of the amendment filed August 28, 2002.

Application No. 10/260,038 will be forwarded to the Office of Initial Patent Examination for further processing as an application filed under 37 CFR § 1.53(b), not under 37 CFR § 1.53(d), with a filing date of September 11, 2002, using the application papers submitted on that date.

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney Christina Tartera Donnell at (703) 306-5589.

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No.

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JUN 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Eugene Andrews	:	
Application No. 10/260,050	:	DECISION ON
Filed: September 27, 2002	:	PETITION
Atty Docket No. P-1574-021	:	
	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a) filed October 12, 2004.

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 C.F.R. § 1.137(a)" or "Renewed Petition under 37 C.F.R. § 1.137(b)," as appropriate.

The above-identified application became abandoned for failure to timely pay the required issue fee (and publication fee) within the statutory period of three (3) months from the mailing date, June 28, 2004, of the Notice of Allowance and Fee(s) Due. Accordingly, the above-identified application became abandoned on September 29, 2004. The instant petition precedes the mailing of a Notice of Abandonment.

Petitioner maintains that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unavoidable. In support thereof, petitioner submits the declaration of legal assistant Gina Swift.

A grantable petition under § 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(l);
(3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition includes payment of the issue fee and the publication fee and petition fee. The Notice set no distinct but concurrent requirement for new drawings. Thus, requirements (1) and (2) are met. In this case, no terminal disclaimer is required on petition to revive. Requirement (3), a showing of unavoidable delay, is at issue.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

A delay resulting from an error (e.g., 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:

(A) the error was the cause of the delay at issue;
(B) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and
(C) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

Petitioner's explanation has been considered but not found adequate to meet this standard. In her statement, the legal assistant explains that the docketing system did not show receipt of the notice of allowance. In addition, she states that she is unable to explain how receipt of the notice was overlooked or why the notice was not docketed. Moreover, the statement does not detail the business routine in place and does not set forth the legal assistant's training and experience with regard to the function. It is merely stated that a docketing system exists and that the legal assistant has been employed by the firm for five years. Thus, without knowledge of the specific error that caused the delay, the business routine for performing the clerical function, or the relevant employees training and experience with respect to the function, it cannot be concluded that petitioner has met his burden of establishing unavoidable delay.

Accordingly, the petition under § 1.137(a) must be dismissed.

Petitioner is not precluded from seeking revival based on unintentional delay. A grantable petition pursuant to § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

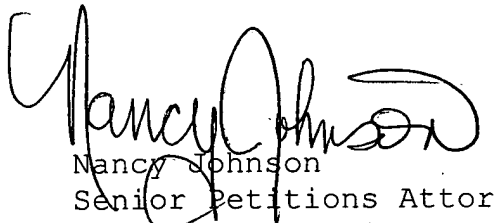
Further correspondence with respect to this matter should be addressed as follows:

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

By fax: (703) 872-9306
ATTN: Office of Petitions

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

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Floyd E. Ivey
Liebler, Ivey & Connor
P. O. Box 6125
Kennewick, WA 99336

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JUL 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Eugene Andrews	:	
Application No. 10/260,050	:	DECISION ON
Filed: September 27, 2002	:	PETITION
Atty Docket No. P-1574-021	:	
	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed June 30, 2005.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the required issue fee (and publication fee) within the statutory period of three (3) months from the mailing date, June 28, 2004, of the Notice of Allowance and Fee(s) Due. Accordingly, the above-identified application became abandoned on September 29, 2004.

By decision mailed June 29, 2005, a prior petition to revive pursuant to § 1.137(a) filed October 12, 2004 was dismissed. The petition included payment of the issue fee and the publication fee. There was not a distinct and concurrent requirement for new drawings. However, the petitioner failed to make an adequate showing of unavoidable delay.

On instant renewed petition, petitioner makes the requirement statement of unintentional delay pursuant to § 1.137(b). The petition meets the less stringent standard of unintentional delay. All other requirements having been previously met, the petition is grantable under § 1.137(b).

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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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THE LAW OFFICE OF KIRK D. WILLIAMS
PO BOX 39425
DENVER, CO 80239-0425

Mail Date: 04/21/2010

Applicant	: Danny Levy	: DECISION ON REQUEST FOR
Patent Number	: 7583678	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/260,059	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/27/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1383** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/260,064	09/27/2002	David W. Pfeifer	110003.98229.02AB209	6975

7590 10/03/2005

Susan M. Donahue
Rockwell Automation, Inc.
1202 South Second Street
Milwaukee, WI 53204

EXAMINER	
CHERVINSKY, BORIS LEO	

ART UNIT	PAPER NUMBER
2835	

DATE MAILED: 10/03/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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092005

Susan M. Donahue
Rockwell Automation, Inc.
1202 South Second Street
Milwaukee WI 53204

SEP 30 2005

In re Application of:
David W. Pfeifer
Serial No.: 10/260,064
Filed: September 27, 1002
For: COMPACT LIQUID CONVERTER ASSEMBLY

DECISION ON PETITION

This is a decision on the petition, filed March 15, 2004, to withdraw the holding of abandonment of the above-identified application.

The petition is GRANTED.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action of June 17, 2003. A Notice of Abandonment was mailed on February 18, 2004.

Petitioner states that a response was in fact timely filed on September 22, 2003. To support this assertion, petitioner has submitted a copy of a postcard receipt that was date-stamped by the USPTO to acknowledge receipt in the USPTO of an amendment on September 22, 2003. A copy of the response was submitted with the petition. The copy of the response bears a certificate of mailing under 37 CFR 1.8(a) with a date of deposit of September 17, 2003.

The response originally filed on September 22, 2003 was not associated with the application file. However, the evidence submitted is adequate to establish that a response to the outstanding Office action was timely filed.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The amendment filed with the petition is hereby accepted since it was apparently lost after being received in the USPTO.

The response submitted September 22, 2003, will be entered and the examiner will prepare an Office action in response thereto. Inconvenience to the applicant is regretted.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Richard K. Seidel, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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QUALCOMM INCORPORATED
PATENTS DEPARTMENT
5775 MOREHOUSE DRIVE
SAN DIEGO, CA 92121-1714

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OFFICE OF PETITIONS

In re Application of
Toncich, Stanley S.
Application No. 10/260,080
Filed: September 27, 2002
Attorney Docket No. 000114

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 24, 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 November 14, 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 January 15, 2003.

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

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

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

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.

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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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111

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OCT 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Luiz Scheinkman	:	
Application No. 10/260,092	:	DECISION ON PETITION
Filed: September 27, 2002	:	TO WITHDRAW
Attorney Docket No. 017900-002310US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 22, 2007.

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

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP has been revoked by the assignee of the patent application on July 23, 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: **Fountainhead Law Group, PC**
900 Lafayette Street
Suite 509
Santa Clara, CA 95050

UNITED STATES PATENT AND TRADEMARK OFFICE

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MD 200-9
SUGAR LAND TX 77478

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OFFICE OF PETITIONS

In re Application of
Brian Clark
Application No. 10/260,098
Filed: September 30, 2002
Attorney Docket No. 24.0849

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 20, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 16, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A three-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is June 17, 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 $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; (3) a proper statement of unintentional delay; and (4) terminal disclaimer and fee.

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

This application is being referred to Technology Center AU 2862 for processing of the RCE, amendment and terminal disclaimer and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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JENKINS, WILSON, TAYLOR & HUNT, P. A.
Suite 1200 UNIVERSITY TOWER
3100 TOWER BLVD.,
DURHAM NC 27707

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FEB 04 2010

OFFICE OF PETITIONS

In re Application of :
GEWIRTH et al. :
Application No. 10/260,104 : ON APPLICATION FOR
Filed: 09/30/2002 : PATENT TERM ADJUSTMENT
Atty. Docket No. 180/136/2 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705 filed July 8, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent should be 743 days, or in the alternative, 538 days, not 3 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR

1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

The Office acknowledges 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:

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[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

> 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 filed in this application on March 19, 2007.

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

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

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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PHILIP ALBERT
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER FLOOR EIGHTH
SAN FRANCISCO, CA 94111

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MAY 31 2006

OFFICE OF PETITIONS

In re Application of	:	
Lawrence E. Morrisroe, et al.	:	
Application No. 10/260,134	:	DECISION ON PETITION
Filed: September 27, 2002	:	TO WITHDRAW
Attorney Docket No. 017887-010600US	:	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 29, 2005.

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

A review of the file record indicates that the power of attorney to all the attorneys/agents associated with Customer No. 20350 has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

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

There is no outstanding Office action that requires a reply from the applicant.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: dp

cc: BRINKS HOFER GILSON & LIONE / YAHOO! OVERTURE
P.O. BOX 10395
CHICAGO IL 60610

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJr: 05-03

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OFFICE OF PETITIONS

RICHARD T. REDANO
DUANE MORRIS LLP
SUITE 500
ONE GREENWAY PLAZA
HOUSTON TX 77046

In re Application of
Smith, et al.
Application No. 10/260,139
Filed: 30 September, 2002
Attorney Docket No.D5407-143

ON PETITION

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47[1] filed on 11 April, 2003.

Petitioner has shown that, while the other several inventors have signed the oath/declaration, the non-signing inventor **Fatih Kara** (Mr. Kara) has refused or otherwise failed to join in the filing of the above-identified application after having been presented with the application papers.

Specifically, the declaration/statement/submission of facts of/by Gary Maze (Reg. No. 42,851) establishes that the non-signing inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond positively to the request that he sign the declaration or in fact sign said declaration.

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(c) The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being forwarded to OIPE for processing as necessary to reflect the instant decision, and then will be forwarded to Technology Center 3600 for further processing in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ONE LIBERTY PLACE, 46TH FLOOR
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PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of
Mumick
Application No. 10/260,144
Filed: June 21, 2006
Attorney Docket No. KIRU-0019

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 June 21, 2006.

The request is **APPROVED**.

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

The request was signed by Peter M. Ullman on behalf of all attorneys of record who are associated with customer No. 23377.

All attorneys/agents associated with the Customer Number 23377 have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: INDERPAL S. MUMICK
85 SWENSON CIRCLE
BERKELEY HEIGHTS, NJ 07922

cc: MR. ASHOK TANKHA, ESQ.
IP PROCURE, INC.
36 GREENLEIGH DRIVE
SEWELL, NJ 08080

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
10/260,144	09/30/2002	Inderpal Singh Mumick	KIRU-0019

CONFIRMATION NO. 6520

OC000000020764698

OC000000020764698

23377
WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

Date Mailed: 10/10/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/21/2006.

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

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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United States Patent and Trademark Office
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SCHEEF & STONE
5956 SHERRY LANE
SUITE 1400
DALLAS, TX 75225

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FEB 14 2005

OFFICE OF PETITIONS

In re Application of :
Giridhdar D. Mandyam :
Application No. 10/260,170 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. NC17618 9019.106 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 31, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed July 14, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The amendment submitted on October 18, 2004 (certificate of mailing date October 14, 2004), did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed January 25, 2005. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. Extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on October 15, 2004.

The above-identified application is being revived solely for purposes of continuity with a submission under 37 CFR 1.114 (request for continued examination (RCE)).

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

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

This matter is being referred to Technology Center 2665 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

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AUG 18 2004

In re Application of
Scott Oram *et al*
Application No. 10/260,176
Filed: September 27, 2002
Attorney Docket No. 006374.2

: DECISION ON PETITION

This is a decision on the petition to make special filed that was originally filed on July 13, 2004.

The petition is dismissed.

The petition is signed by only one of the joint inventors. Section 1.33(b) of Title 37 of the Code of Federal Regulations (37 CFR 1.33(b)) provides that amendments and other papers must be signed by all of the applicants where there has not been a registered practitioner appointed to prosecute the application.

Additionally, a review of the petition shows that petitioners have not provided any basis for requesting special status, other than that petitioner wants the application acted upon sooner than it might ordinarily come up for action. However, a petition to make special must be based upon one of the specific grounds listed in MPEP § 708.02, subsections I-XII. A copy of this material is attached. Absent an allegation of a recognized basis for requesting special status, and satisfaction of the requirements associated with that basis, a petition to make special cannot be granted.

Applicants may file a renewed petition, without additional fee. The renewed petition must be filed within two months of the date of this decision, pursuant to 37 CFR 1.181(f). The renewed petition must be based upon one of the recognized grounds for filing a petition to make special, as established in the attached material.

PETITION DISMISSED.

Stephen Marcus, Special Program Examiner,
Technology Center 3700

Attachment

Scott Oram
9649 Palomino Ridge Rd.
El Cajon, CA 92021

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OCT 17 2006

OFFICE OF PETITIONS

SCHEFF & STONE, L.L.P.
5956 SHERRY LANE
SUITE 1400
DALLAS, TX 75225

In re Application of :
Tapani Jokinen et al :
Application No. 10/260,177 : DECISION ON PETITION
Filed: September 30, 2002 : TO WITHDRAW
Attorney Docket No. 042933/301458 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 23, 2006.

The petition is **NOT APPROVED.**

A review of the file record indicates that the power of attorney to Robert H. Kelly, along with all of the other attorneys associated with customer no. 30973, has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. §1.36(b) is **moot.**

All future communications from the Office will be directed to the below-listed address of record until otherwise notified by applicant/assignee or the current attorneys of record.

This application is being referred to Technology Center AU 2618.

Telephone inquiries concerning this decision should be directed to Karen Creasy at 571-272- 3208.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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AVAGO TECHNOLOGIES, LTD.
P.O. BOX 1920
DENVER, CO 80201-1920

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FEB 07 2007

OFFICE OF PETITIONS

In re Application of :
Hartlove et al. :
Application No. 10/260186 : ON PETITION
Filing or 371(c) Date: 09/27/2002 :
Title of Invention: CMOS IMAGE :
SENSOR USING GRADIENT :
INDEX CHIP SCALE LENSES :

This is a decision on the petition, styled under 37 CFR 1.47(a), filed October 4, 2006, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR 1.131 in that it requires that a declaration filed thereunder be signed by all inventors.[1]

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. **FAILURE TO TIMELY RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.183."

This application was filed on September 27, 2002, and named Jason T. Hartlove, David S. Pitou and Patricia E. Johnson as joint inventors.

[1] Once an application has received a fully executed oath or declaration under 37 CFR 1.63 and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. See MPEP 603.

On October 4, 2006, the present petition, along with a declaration under 37 CFR 1.131 signed by joint inventor Hartlove, was filed.

Petitioners state that a copy of the declaration under 37 CFR 1.131 was sent to non-signing inventor Johnson at her last known address, but that the letter was returned on October 3, 2006 by the United States Postal Service ("USPS") and stamped to indicate that inventor Johnson no longer at her last known address and that no forwarding address was available. Petitioner additionally state that a search of the telephone listings in the city where the nonsigning inventor was last known to reside – Palo Alto, and surrounding cities was conducted; however, Petitioner "was unable to identify any f the listings as belonging to the nonsigning inventor." Statement of David T. Miller at pp. 1-2.

Analysis

Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." The facts presented on the record do not adequately establish an extraordinary situation. Petitioner has not sufficiently established any special circumstances of equities that would require suspension of the rules in the interests of justice.

There is no requirement for a showing under 37 CFR 1.47, as noted above. This application bears an original Declaration executed by all joint inventors, and thus, the provisions of 37 CFR 1.47 do not apply in this instance. Nevertheless, it is appropriate to apply the principles thereof to the situation at hand.

Petitioners' showing is deficient in that proof of diligent efforts to locate inventor Johnson has not been made.[2]

Specifically, where an inventor is unavailable (cannot be reached), Petitioner must establish the exercise of diligent effort in trying to find or reach the nonsigning inventor. A statement of facts should be submitted from a person with first hand knowledge of the facts relied upon that fully describes the exact facts which are relied on to establish that a diligent effort was made to locate the inventor. *See*, MPEP § 409.03(d). At the very least, an Internet search, or a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition. It is important that the forthcoming communication contain statements of fact as opposed to conclusions. *See*, MPEP § 409.03(d). (Emphasis supplied).

---

[2] MPEP 409.03(d).

If a more recent address is discovered for either or both of the inventors, petitioners should send the declaration to the inventor(s) at that address. If the inventor refuses orally, petitioners should submit details of the refusal in an affidavit or declaration of facts by a person having first-hand knowledge of the refusal.

If repeated efforts to locate the inventor(s) and obtain the declaration under 37 CFR 1.131 are unsuccessful, petitioners will have shown that the inventor(s) cannot be located.

The 131 Declaration

A review of the Declaration of Prior Invention Pursuant to 37 C.F.R. § 1.131 filed October 4, 2006 with the present petition reveals that the signature of inventor Pitou is also missing. Petitioner must either present a Declaration executed by all of the inventors, or present an acceptable Declaration in compliance with the principles set forth in 37 C.F.R. § 1.47[1].

Finally, the address given on the petition differs from the address of record; however, the application file does not indicate a change of address has been filed in this case. 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.

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

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

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

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

[1] Applicant is advised that, where an inventor is unavailable (cannot be reached), Petitioner must establish the exercise of diligent effort in trying to find or reach the nonsigning inventor. Applicant is also advised that, if the whereabouts of the nonsigning inventor are known, Applicant is required to send the application to the inventor for his review. See, MPEP 409.03(d).

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

CC: The Patent Law Offices
Of David Millers
6560 ASHFIELD COURT
SAN JOSE, CA 95120

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

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APR 12 2006

OFFICE OF PETITIONS

In re Application of :
Pearson et al. :
Application No. 10/260,187 :
Filed: September 28, 2002 : ON PETITION
Attorney Docket Number: :
37167-8045.US00 :

This is a decision on the Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181(a), filed February 16, 2006.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action, mailed April 7, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a).

Within two (2) months of the mailing of the final Office action, Applicant filed an Amendment in response to the final Office action on June 6, 2005. The Amendment failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed June 28, 2005.

No reply having been received, the application became abandoned on July 8, 2005. A Notice of Abandonment was mailed on December 29, 2005.

Applicant's Assertion

Applicant responds with the instant petition wherein Applicant avers that a timely reply, in the form of a Request for Continued Examination ("RCE"), was filed in this Office on July 7, 2005. In support of this assertion, Applicant provides a copy of a return-receipt postcard acknowledging receipt of a RCE and fee by this Office on July 7, 2005.

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

Accordingly, the petition is granted.

The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application file is being referred to Technology Center Art Unit 3739 for continued processing in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3232.

Derek L. Woods
Attorney
Office of Petitions

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

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FEB 07 2008

OFFICE OF PETITIONS

In re Application of:	:	
Pearson et al.	:	DECISION GRANTING
Application No. 10/260187	:	37 CFR 1.47(a)
Title of Invention:	:	
IMPEDANCE CONTROLLED TISSUE	:	
ABLATION APPARATUS AND METHOD	:	

This Decision is in response to the "Petition Under 37 CFR 1.47(a)," filed December 4, 2007, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s). See, MPEP 409.03.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventors, Steven A. Daniel and Theodore C. Johnson, refuses to join in the application.

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

The application file is being referred to Publishing Division for issuance of the patent in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MR. STEVEN A. DANIEL
40874 CALIDO PLACE
FREMONT, CA 94539

COPY MAILED

FEB 07 2008

OFFICE OF PETITIONS

In re Application of:
Pearson et al.
Application No. 10/260187
Title of Invention:
IMPEDANCE CONTROLLED TISSUE ABLATION APPARATUS AND METHOD

LETTER

Dear Mr. Daniel:

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 (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney
Office of Petitions

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

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MR. THEODORE C. JOHNSON
1534 PINE VALLEY BLVD.
APT. 12
ANN ARBOR, MI 48104

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FEB 07 2008

OFFICE OF PETITIONS

In re Application of:
Pearson et al.
Application No. 10/260187
Title of Invention:
IMPEDANCE CONTROLLED TISSUE ABLATION APPARATUS AND METHOD

LETTER

Dear Mr. Johnson:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney
Office of Petitions

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

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United States Patent and Trademark Office
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DONALD W. MEEKER
PATENT AGENT
924 EAST OCEAN FRONT, # E
NEWPORT BEACH CA 92661

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FEB 15 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of
Orel Ronald Moore
Application No. 10/260,200
Filed: September 28, 2002
Title of Invention: **EXTENDED LIFE ROAD SYSTEM AND METHOD**

This is a decision on the petition filed January 13,2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed June 10, 2003. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned September 11, 2003. Accordingly, a Notice of Abandonment was mailed December 29, 2003.

This matter is being referred to Technology Center 3671 for appropriate action on the amendment filed January 13, 2006.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

17 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Baker Botts L.L.P.
30 Rockefeller Plaza
New York, NY 10112

In re Application of
Lacey et al.
Application No. 10/276896
PCT No.: PCT/AU01/00569
Int. Filing Date: 18 May 2001
Priority Date: 19 May 2000
Atty. Docket No.: A35546 PCT USA
For: Impeller Assembly

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

This is in response to the petition under 37 CFR 1.137(b) filed on 20 November 2002 and the "corrected" petition filed on 30 December 2002.

BACKGROUND

This international application was filed on 18 May 2001 and claimed earliest priority of an application filed on 19 May 2000. The International Bureau transmitted a copy of the published international application to the USPTO on 29 November 2001. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 19 November 2002. This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee 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 (c) of this section.

Regarding requirement (1), the petition was accompanied by the required reply in the form of the basic national fee.

Regarding requirement (2),the petition was accompanied by the petition fee.

Regarding requirement (3), the petition includes a statement that "the entire delay in filing the accompanying petition was unintentional." This statement is being construed as 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." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

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

Counsel's Deposit Account No. 02-4377 is being charged in the amount of $65.00 for the surcharge under 37 CFR 1.492(e), as authorized by the petition.

This application is being forwarded to the National Stage Processing Branch for further processing. The date of the application under 35 U.S.C. 371 (c)(1), (2) and (4) is 20 November 2002.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

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Paper No. 7

JAMES J. MAUNE
BAKER BOTTS LLP
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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OCT 0 2 2003

OFFICE OF PETITIONS

In re Application of :
Christopher George Lacey et al :
Application No. 10/276,896 :
Filed: November 20, 2002 :
Attorney Docket No. A35546 PCT USA

NOTICE

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center 3700.

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

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

UR
PAPER NO. 6

MAR 31 2003

In re Application of	:	
Stephen C. Bytnar	:	DECISION
Serial No. 10/260,225	:	ON
Filed: September 30, 2002	:	PETITION
For: DE-ICING COMPOSITION AND METHOD	:	UNDER 708.02,V

This is in response to the petition filed September 30, 2002, requesting that the above-identified application be granted Special Status under Sections 708.02 (V) of the MPEP and 37 CFR 1.102(c).

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

JMStone

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

SYNGENTA BIOTECHNOLOGY, INC.
PATENT DEPARTMENT
3054 CORNWALLIS ROAD
P.O. BOX 12257
RESEARCH TRIANGLE PARK NC 27709-2257

In re Application of	:	
Paul Budworth et al	:	
Application No. 10/260,238	:	DECISION ON PETITION
Filed: September 26, 2002	:	
Attorney Docket No. 60111-NP	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 1, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the nonfinal rejection mailed April 20, 2005, which set a shortened statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 21, 2005. A notice of abandonment was mailed on December 21, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant

to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1) and (3).

As to item (1):

The required response to the nonfinal rejection mailed April 20, 2005, has not been received.

As to item (3):

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

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

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

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

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

As to Period (1):

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

application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over three 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 July 21, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Syngenta Biotechnology, Inc., was counsel of record at the time of abandonment, Syngenta Biotechnology, Inc., should explain why this application became abandoned while it was under their control and what efforts were made to further reply of itself and with whom this matter was discussed outside of Syngenta Biotechnology, Inc. 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),Syngenta Biotechnology, Inc., and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at Syntenta Biotechnology, Inc., 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 three years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v.

Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at Syngenta Biotechnology, Inc., 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).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,050 extension of time fee submitted with the petition on October 1, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

Lastly, the examiner indicated in the Notice of Abandonment mailed December 21, 2005 that: "Intent to allow the application become abandoned was confirmed in a telephone conversation with Michael Yates on December 5, 2005." This statement is being regarded in this decision as reflective of intentional abandonment.

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) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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SJM/AFD-WILEY
14901 DEVEAU PLACE
MINNETONKA MN 55345-2126

In re Application of :
Rashidi :
Application No. 10/260,242 : DECISION
Filed: 30 September, 2002 :
Attorney Docket No. :
0B-0119043101US/82410-0119

This is a decision on the petition, filed on 8 February, 2008, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

A proper showing as to non-receipt requires at the very minimum: a statement from practitioner stating that the Office action was not received by the practitioner; a statement from the practitioner attesting to the fact that a search of the file jacket and docket records for the application indicates that the Office action was not received with a copy of those docket records; and a brief statement of the calendaring process and a copy of the due-date (calendar) docket record(s) where the nonreceived Office action would have been scheduled for reply had it been received must be attached to and referenced in the practitioner's statement.

Alternatively, for a showing of timely and proper reply: a statement from practitioner stating that the reply was timely submitted by the practitioner; and copies of all papers submitted as and/or in support of that reply, with/and a copy of the date-stamped receipt card, Office FAX receipt

acknowledgement (not simply Petitioner's FAX transmittal), or EFS receipt acknowledgment from the Office, along with practitioner's attestation as to the correctness/completeness of his/her records.

The showing(s) must include that of the person(s) with first-hand knowledge and an acknowledgment by the Petitioner that he/she has reviewed that information in compliance with his/her duty of candor to the Office.

BACKGROUND

The record reflects as follows:

This application was held abandoned for Petitioner's failure to reply timely and properly to a Notice of Non-Compliant Brief mailed on 17 August, 2007, with a reply due absent extension of time on or before 17 September, 2007.

Tracking back for history: the Examiner mailed a final Office action on 29 November, 2006, with a reply due absent extension of time on or before 28 February, 2007.

On 28 February, 2007, at the end of three months into the reply period, Petitioner filed, *inter alia*, rather than a proper reply instead an after-final amendment, which Petitioner, as one registered to practice before the Office, was aware was not a proper reply and not of right, and the Examiner mailed an Advisory action on 15 March, 2007.

On 29 March, 2007, Petitioner filed, *inter alia*, a request and fee for extension of time (one (1) month).

On 13 April, 2007, Petitioner filed, *inter alia*, a request and fee for extension of time (two (2) months) and a Notice of Appeal and fee.

The Office mailed a Notice of Non-Compliant Brief on 17 August, 2007.

The application went abandoned after midnight 17 September, 2007.

The Office mailed the Notice of Abandonment 13 December, 2007.

On 8 February, 2008, Petitioner filed the instant petition with, *inter alia*, an averment that the a reply (in the form of a Brief responsive to the 17 August, 2007, Notice of Non-Compliant Brief) was timely filed with a request and fee for a two- (2-) month extension of time, and while Petitioner did not submit in support of that averment Petitioner provided a copy of the file docket and of a date-stamped receipt card/Electronic Acknowledgment Receipt, Petitioner did point to the presence of the papers so identified in the Image File Wrapper as of the date averred—30

August, 2007—suggesting compliance with the guidance set forth in the Commentary at MPEP §711.03(c)(I)(A) and (B).

The confusion appears to have occurred in part because Petitioner did not note that the request and fee for a three- (3) month extension of time are not the equivalent of a one- (1-) month extension and a two- (2-) month extension, and so may not properly have instructed the Office in that regard.

Further, Petitioner argues the substance of the Notice of Abandonment's citation to the 17 August, 2007, Notice of Non-Compliant Brief. This argument is not considered herein for the following reason(s)—to wit: The 13 December, 2007, Notice of Abandonment does not reflect the 30 August, 2007, reply, and, thus, it must be and is presumed for the purposes of this decision that the 30 August, 2007, was not considered in the issuance of the 13 December, 2007, Notice of Abandonment. Moreover, Petitioner's argument as to the substance of the compliant/non-compliant nature of the brief is proper for consideration by the Examiner, and the only issue before the Office of Petitions at this writing is whether Petitioner submitted a timely reply to the 17 August, 2007, Notice of Non-Compliant Brief.

The guidance in the Commentary at MPEP §711.03(c) sets forth the showing requirements for overcoming the presumptions herein.[1]

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[1] The guidance in the Commentary at MPEP §711.03(c) as to non-received Office actions and timely filed replies is as follows:

A.Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.<

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

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

B.Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

(*See* MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," alternatively "A Reply Was Timely Filed"; see also: "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).)

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]

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.

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37 CFR 1.10(c) through 1.10(e) and 1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

37 CFR 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 CFR 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 CFR 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 CFR 1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

[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).

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.[3] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the showing requirements as discussed hereinabove.

CONCLUSION

The petition under 37 C.F.R. §1.181 is **granted**, and the 13 December, 2007, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center/AU 3766 to await the Examiner's Answer in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision—and it is noted that all inquiries with regard to that change in status should be directed to the Technology Center/AU where that change of status must be effected.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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OFFICE OF PETITIONS

In re Application of	:	
Langrana et al.	:	
Application Number: 10/260243	:	DECISION ON PETITION
Filing Date: 09/30/2002	:	
Attorney Docket Number:	:	
LANGRANA 1-1-16	:	

This is a decision on the petition filed on 7 February, 2007, under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **DISMISSED**.

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

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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 application became abandoned on 11 October, 2006, for failure to file a proper reply to the final Office action mailed on 10 July, 2006, which set a three (3) month shortened statutory period for reply. On 10 October, 2006, an amendment after final rejection was filed. The amendment did not place the case in condition for allowance, however, and an Advisory Action was mailed on 26 January, 2007. On 12 February, 2007, Notice of Abandonment was mailed.

The petition lacks the fee required by 37 CFR 1.137(b)(2). Specifically, counsel's deposit account, No. 08-2395, does not contain sufficient funds to cover all fees due. The PTO will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.[2] An amount sufficient to cover all fees, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted.[3]

Additionally, the petition lacks 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 required statement of unintentional delay must be submitted with any renewed petition.

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

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

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

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

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[2] See Krahn v. Comm'r, 15 USPQ2d 1823, 1825 (E.D. Va. 1990).
[3] 37 CFR 1.25.

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 :
Langrana et al. :
Application Number: 10/260243 : DECISION ON PETITION
Filing Date: 09/30/2002 :
Attorney Docket Number: :
LANGRANA 1-1-16 :

This is a decision on the renewed petition filed on October 23, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on October 11, 2006, for failure to file a proper reply to the final Office action mailed on July 10, 2006, which set a three (3) month shortened statutory period for reply. On October 10, 2006, an amendment after final rejection was filed. The amendment did not place the case in

[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. 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)).

condition for allowance, however, and an Advisory Action was mailed on January 26, 2007. On February 12, 2007, Notice of Abandonment was mailed. The paper styled a petition filed on February 7, 2007, was dismissed on October 23, 2007, for failure to include sufficient funds to pay the petition fee, as well as a proper statement of unintentional delay.

Petitioners have filed a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114. The petition fee has now been received, as has a proper statement of unintentional delay.

This application is being forwarded to Technology Center 1615 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/17/06

TO SPE OF : ART UNIT 1756

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/260278 Patent No.: 6960415

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: _____

4/6/06 1756

SPE Art Unit

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WASHINGTON, DC 20004

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DEC 23 2004

OFFICE OF PETITIONS

In re Application of :
Soichi Owa, et. al. :
Application No. 10/260,287 : DECISION ON PETITIONS
Filed: October 1, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 053848-5007 : AND 37 CFR 1.182

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 11, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

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

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

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

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

The instant petition does not comply with item (1).

Upon review of the amendment submitted with the instant petition, filed August 11, 2004, it is unclear as to petitioner's claim for priority. Therefore, petitioner must clarify the answers to these three questions:

1. Should the amendment filed August 11, 2004, replace the first line of the specification filed October 1, 2002; or should the amendment be entered prior to the first line of the specification?

2. Does petitioner wish to still claim priority to Japanese Patent Application Nos. 2000-112248 filed April 13, 2000 and 2001-78636 filed March 19, 2001?

3. Is petitioner interested in claiming priority to the four Japanese applications mentioned in the instant petition?

If petitioner desires to delete the first line of the original specification, then a new amendment in compliance with 37 CFR 1.121 must be submitted. Petitioner is reminded that the relationship for each application must be stated. 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional application and foreign application must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., (August 2001), Section 201.11, Reference to First Application. The amendment filed August 11, 2004 does not clearly state the relationship of the prior-filed application to the instant application.

Additionally, Application No. 09/538,233 cannot claim priority to Japanese Application Nos. 59453/1998, 130580/1998, 227333/1998, and 311147/1998, because Application No. 09/538,233 was filed March 30, 2000, which is well over twelve (12) months of filing of the Japanese Applications. However, it would be proper for intermediate PCT Application No. PCT/JP98/05367 filed November 30, 1998, to claim priority to Japanese Application Nos. 59453/1998, 130580/1998, 227333/1998, and 311147/1998. Further, if petitioner is claiming priority to the Foreign applications, mentioned above, a petition under 37 CFR 1.55(c) is also required. Petitioner should note that the requirements of 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be met.

Accordingly, before the petition under 37 CFR §§ 1.78(a)(3) can be granted, a renewed petition under 37 CFR §§ 1.78(a)(3) and a substitute amendment[1] which clarifies the application, including the relationship, to which priority is being claimed.

It is noted that petitioner submitted a petition under 37 CFR 1.182, requesting a correction of the inventor's name. Since no petition is necessary for such a correction, no petition fee has been charged. See MPEP 605.04(b). USPTO records have been updated to correct the inventor's name. A corrected filing receipt is enclosed for petitioner's records.

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

[1] *Note* 37 CFR 1.121

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

By Fax: (703) 872-9306
ATTN: Office of Petitions

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

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

Frances Hicks
Lead Petitions Examiner

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, DC 20004

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MAR 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Soichi Owa et al :
Application No. 10/260,287 : DECISION ON PETITION
Filed: October 1, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 053848-5007 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed January 24, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed nonprovisional and PCT applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The instant pending application was filed on October 1, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional and PCT applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional and PCT applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed

nonprovisional and PCT applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. §§ 120 and 365(c). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed nonprovisional and PCT applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

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

This matter is being referred to Technology Center Art Unit 3739 for appropriate action on the amendment filed January 24, 2005, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed nonprovisional and PCT applications.

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

ATTACHMENT: Corrected Filing Receipt

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JUL 1 4 2004

OFFICE OF PETITIONS

In re Application of	:	
Inger et al.	:	DECISION ON PETITIONS
Application No. 10/260,313	:	UNDER 37 CFR 1.78(a)(3)
Filed: 27 September, 2002	:	AND UNDER 37 CFR 1.55(c)
Atty Docket No. 5003073-030US1	:	

This is a decision on the petition under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed on 28 June, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of a prior-filed international application, and under 35 U.S.C. § 119(a)-(d) and (f) for the benefit of a prior-filed foreign application, as set forth in the concurrently-filed application data sheet. This is also a decision on the petition under 37 CFR 1.182 to expedite the petition under 37 CFR 1.78(a)(3) and 1.55(c). The petition fee has been received.

The petitions are **GRANTED**.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after 29 November, 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. § 365(c) and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]

[1]Any nonprovisional application or international application designated the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designated the United States of America must contain or be amended to contain a reference (amendment to the first line of the

(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 27 September, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed application has been included in an application data sheet, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after 29 November, 2000, and the claim herein for the benefit of priority to the prior-filed application is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 365(c). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 365(c) to prior-application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

As to the benefit claim under 37 CFR 1.55(c):

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

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

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date;

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specification following the title or in an application data sheet (ADS))to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

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

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

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

The above-identified pending nonprovisional application was filed on 27 September, 2002, and the intermediate PCT application was filed within 12 months of 31 March, 2000, which is the earliest filing date of the foreign application to which benefit is claimed. A certified copy of the foreign patent document was filed on 19 December, 2002. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) and (f) is granted.

It is noted that petitioner's application data sheet improperly claims under the section for domestic priority benefit to foreign Application No. DE 100 16 041.7. Nevertheless, benefit of the aforementioned foreign application was properly placed under the section for priority, and, therefore, will only be entered as such in Office records.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 1.55(c) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 365(c) and 37 CFR 1.55(c) and 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 as 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 international and foreign applications, accompanies this decision on petition.

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

The application is being forwarded to Technology Center 1773 for consideration of the amendment after allowance filed on 28 June, 2004.

Frances Hicks

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

Encl: Corrected Filing Receipt

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FEB 16 2005

OFFICE OF PETITIONS

In re Application of :
Waldemar Inger et al :
Application No. 10/260,313 : DECISION GRANTING PETITION
Filed: September 27, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 5003073-030US1 :

This is a decision on the petition, filed February 15, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 21, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1773 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).*

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JUN 19 2006

OFFICE OF PETITIONS

In re Application of :
Barkhoudarian :
Application No. 10/260,315 :
Filing Date: 30 September, 2002 :
Attorney Docket No.: 02-0163 :

DECISION

This is a decision on the petition filed on 12 May, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance and Fees Due and Notice of Allowability mailed on 12 December, 2005, with reply due absent extension of time on or before Monday, 13 March, 2006;
- the instant application went abandoned after midnight12 March, 2006;
- the attempt to pay the Issue Fee on 28 March, 2006, was not timely;
- the Office mailed a Notice of Abandonment on 21 April, 2006;

- on 12 May, 2006, Petitioner filed the instant (with fee), reply in the form of fees due and made the statement of unintentional delay–thus, Petitioner appears to have satisfied the requirements of a petition under 37 C.F.R. §1.137(b).

STATUTES, REGULATIONS AND ANALYSIS

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

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

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt,[6] and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and

---

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

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

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

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

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

[6] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

As to the Allegation
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 if the application was filed before 8 June, 1995, or is a design application.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

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

The instant application is released to Publications Branch to be processed into a patent in due course.

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

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

[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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANDREW S. McCONNELL
BOYLE FREDRICKSON NEWHOLM
STEIN & GRATZ, S.C.
250 E. WISCONSIN AVENUE, SUITE 1030
MILWAUKEE, WI 53202

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MAR 1 1 2003

OFFICE OF PETITIONS

In re Application of :
Robert J. Elsing :
Application No. 10/260,326 : DECISION GRANTING PETITION
Filed: September 30, 2002 : UNDER 37 CFR 1.137(f)
Attorney Docket No. 335.827 :

This is a decision on the petition, filed March 3, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on October 28, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

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

the filing of a grantable petition was unintentional.

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of April 1, 2004 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 3637 for examination in due course.

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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Paper No. 5

DOWELL & DOWELL
1215 JEFFERSON DAVIS HWY.
SUITE 309
ARLINGTON, VA 22202-3124

COPY MAILED

SEP 0 8 2003

OFFICE OF PETITIONS

In re Application of :
Jane Goguen, Julie Demers, :
Michael Schmidt, Darren Wilson- :
Rymer, Kathleen Connolly, and :
Vincent Loparo :
Application No. 10/260,337 :
Filed: October 1, 2002 :
Title: REAL TIME CLAIM PROCESSING :
SYSTEM AND METHOD :

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

This is in response to the "PETITION UNDER 37 CFR 1.47(a)," filed June 2, 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 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on October 1, 2002, with an unexecuted declaration. Jane Goguen, Julie Demers, Michael Schmidt, Darren Wilson-Rymer, Kathleen Connolly, and Vincent Loparo were named as joint inventors. Accordingly, on October 31, 2002, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply with extensions of time obtainable under §1.136(a).

In response, applicants filed a declaration with separate signature pages for each inventor and executed by all of the joint inventors, except inventor Loparo; the late surcharge under §1.16(e); and the instant petition under § 1.47(a). This response was made timely by an accompanying petition (and fee) for extension of time for response within the fifth month. Applicants assert that status under §1.47(a) is proper because inventor Loparo refuses to join in the application. In support thereof, applicants submitted a statutory declaration of Anton Sabeta, and supporting documentary evidence.

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 does not satisfy requirements (1) and (2).

As to requirement (1), petitioner has not shown that inventor Loparo has refused to join in the application. Before a refusal can be alleged, applicants must demonstrate that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). The evidence only supports a conclusion that the combined declaration and power of attorney and assignment were sent to inventor Loparo. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).

Thus, on renewed petition, applicants must establish that the entire application package, including specification, claims and drawings, was presented to non-signing inventor Loparo and he subsequently refused to sign. If they have not already been sent, a copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the inventor is represented by counsel, to the address of the non-signing inventor's attorney. Documentary evidence, including copies of the transmittal cover letters and return mail receipts, should be made part of the record.

Furthermore, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. Thus, on renewed petition, a new statutory declaration of Anton Sabeta or other proper party, such as the employee who presents the papers, is required.

As to requirement (2), applicants have not submitted a proper declaration. The Office will accept declarations executed separately by all of the joint inventors. However, each declaration must be in compliance with §§ 1.63 and 1.64. In particular, consistent with 35 U.S.C. 116, and the required averment that "I believe I am the original first and joint inventor ...," each declaration must identify the entire inventive entity. Yet, in this instance, the Office has received a declaration from applicants containing the above averment,

numbered pages 1 to 3, with seven (7) pages 3 of 3. Furthermore, each of the page 3s contains a completed block for a sole or first inventor signed by a different (or unsigned in the case of inventor Loparo) and a blank block for a second inventor. Thus, applicants have submitted declarations identifying each inventor as sole inventor. Accordingly, a new declaration (or declarations) in compliance with §§ 1.63 and 1.64 are required.

Petitioner is further reminded that any changes made to the declaration by a signing inventor to his information must be contemporaneously signed and initialed. (i.e., the inventor corrects his address). No other alterations to the declaration may be made. See § 1.52.

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

Telephone inquiries concerning this matter 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
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P.O. BOX 1450
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DOWELL & DOWELL
1215 JEFFERSON DAVIS HWY.
SUITE 309
ARLINGTON, VA 22202-3124

Paper No. 8
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JAN 2 1 2004
OFFICE OF PETITIONS

In re Application of :
Jane Goguen, Julie Demers, :
Michael Schmidt, Darren Wilson- : DECISION ACCORDING STATUS
Rymer, Kathleen Connolly, and : UNDER 37 C.F.R. §1.47(a)
Vincent Loparo :
Application No. 10/260,337 :
Filed: October 1, 2002 :
Title: REAL TIME CLAIM PROCESSING :
SYSTEM AND METHOD :

This is in response to the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. 1.47(a)," filed January 8, 2004.

The petition is **GRANTED**.

The above-identified application was filed on October 1, 2002, with an unexecuted declaration. Jane Goguen, Julie Demers, Michael Schmidt, Darren Wilson-Rymer, Kathleen Connolly, and Vincent Loparo were named as joint inventors. Accordingly, on October 31, 2002, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply with extensions of time obtainable under § 1.136(a).

On June 2, 2003, applicants filed the initial petition under § 1.47(a) with a declaration with separate signature pages for each inventor and executed by all of the joint inventors, except inventor Loparo; and the late surcharge under § 1.16(e). Rule 47 applicants asserted that inventor Loparo refused to join in the application. By decision mailed September 8, 2003, the petition was dismissed because applicants had not shown that inventor Loparo refused to join in the application after having been presented with the application papers (specification, claims and drawings); and that the declaration submitted was not acceptable.

On instant renewed petition, applicants have submitted a declaration executed by inventor Loparo. By statutory declaration of patent agent John R.S. Orange, and based on first hand knowledge, petitioner has shown that the declarations submitted on petition were presented to all of the joint inventors with the entire application package.

Petitioner further states that although inventor Loparo has joined in the application, inventor Connolly now refuses to join. In support thereof, rule 47 applicants submitted a letter dated October 5, 2003, from inventor Connolly stating in regards to the declaration and power of attorney for patent application that "I must decline to pursue this further." Petitioner has thereby shown that non-signing inventor Connolly has refused to join in the filing of the above-identified application.

The petition includes a statement of the last known address of inventor Connolly. Accompanying the renewed petition were five declarations, executed in combination, by joint inventors Goguen, Demers, Schmidt, Wilson-Rymer and Loparo on behalf of themselves and on behalf of non-signing joint inventor Connolly.

The declarations filed January 8, 2004, and the petition have been reviewed and found in compliance with 37 CFR 1.47(a).

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

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

The application file is being forwarded to Technology Center Art Unit 3627 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

JUN 17 2005

HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

In re Application of	:
Eric B. Kmiec et al	:
Serial No.: 10/260,375	: WITHDRAWAL OF ATTORNEY
Filed: September 27, 2002	:
Attorney Docket No.: 41428-0111	:

This is in response to an attorney's request, filed April 14, 2005, to withdraw from representation in the above identified application.

The request is signed by Daniel M. Becker, Registration No. 38,376. While Mr. Becker originally held Power of Attorney in this application, that power was revoked when a new Power of Attorney, appointing the practitioners of Customer No. 25213 as attorneys of record. Mr. Becker is not listed among the practitioners associated with Customer No. 25213 and therefor cannot authorize a Withdrawal of Attorney and Change of Correspondence Address. (See attachments.)

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number, 571-273-8300

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

Cc:
BECKER,DANIEL
Dechert LLP
1117 California Avenue
Palo Alto, CA 94304

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 1/28/08

TO SPE OF : ART UNIT 2182

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/260436 Patent No: 7069354 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

T. Hafiz
SPE

2182
Art Unit

Best Available Copy

power. If so, in a step **120** the USB host **12** simply configures the USB device **102** for "High Power" and all is well.

[0034] Alternately, if the USB host **12** determines that the USB device **102** is plugged into a USB port **14** that cannot support its maximum power requirements, the USB host **12** does not configure the USB device **102**, and in a step **122** it instead temporarily suspends the USB port **14**. The USB specification does not necessarily require formal suspension but this is the way, for example, that the Windows™ operating system handles things. Also, a state of "SUSPEND" is "set" simply by a USB host **12** not talking to a USB device **18**, **102** for a period of time, so this is a fairly passive operation, although still controlled specifically by the USB host **12**.

[0035] In a step **124** the USB device **102** now detects a suspended state, or sees no activity on the USB host **12** after a timeout period, and it disconnects from the USB port **14**. In a step **126** the USB device **102** changes its configuration descriptor to indicate that it is a low-power device. And in a step **128** it re-enables its connection to the USB port **14**.

[0036] In a step **130** the USB host **12** now re-enumerates the USB device **102** with the new, low-power configuration descriptor, and in a step **132** the USB host **12** determines if the USB port **14** that the USB device **102** is plugged into can support the newly requested level of power. If so, in a step **134** the USB host **12** responds to the new descriptor by configuring the USB device **102** for "Low Power" and use of the USB device **102** can proceed.

[0037] If the USB host **12** responds to the new descriptor by configuring the USB device **102** for operation, this is an indication to the USB device **102** that the USB port **14** that it is plugged into can only support low-power devices. In order to remain "polite" (and to stay within the USB specification), the USB device **102** should not enable any high-power operations, such as battery charging from the VBUS **28**. Or, the USB device **102** may now transition to the Impolite Approach (described below) and attempt to draw additional power from the USB port **14**.

[0038] Alternately, if the USB host **12** determines that it cannot support the USB device **102**, perhaps because the USB host **12** does not support the reported class of the USB device **102**, the USB host **12** does not configure the USB device **102**, and in a step **136** it instead temporarily sets the USB port **14** into a suspended state.

[0039] And finally, in a step **138**, the USB device **102** either observes that the USB port **14** is in the suspended state or that the USB host **12** has simply not responded within a timeout period, and this indicates to the USB device **102** that its configuration was not successful for a reason other then power requirements. The USB device **102** can now report the configuration failure through its user interface and abandon USB enumeration until the next insertion of the USB cable **16** is detected.

[0040] Turning now to the Impolite Approach, it depends on that fact that USB ports **14** are required to support overcurrent protection, as well as the fact that most unpowered USB ports **14** are able to supply high amounts of current although they report support only for low-power device configurations. Use of this approach therefore will likely result in a USB device **102** not passing USB certification, by being able to attempt to draw more power than reported in its configuration descriptor(s).

[0041] The Impolite Approach employs the voltage sag detection mechanism **106** (FIG. **3**) of the modified USB device **102**. This detection mechanism **106** is attached to the VBUS **28**, in addition to the conventional VBUS monitoring mechanisms that are already present in a USB device **18**, **102**. The detection mechanism **106** can include, without limitation to merely these examples, an A/D port or a GPIO input that has been biased with a resistor to report a voltage low condition at a higher voltage than the VBUS detection circuit.

[0042] FIG. **5** is a flow chart depicting an impolite process **150** that employs the Impolite Approach in accord with the inventive switching system **100**. In a step **152** the impolite process **150** begins with insertion into a USB port **14** of a USB cable **16** connected to a high-current USB device **102** (or by direct connection of cable-less USB device **102**). In a step **154** the USB device **102** reports a need for only a low-power configuration to the USB host **12**.

[0043] In a step **156** the USB host **12** receives the configuration descriptor from the USB device **102**, and in a step **158** the USB host **12** determines, based on the configuration descriptor requesting low-power configuration, if the USB device **102** should be permitted to use the USB port **14** it is plugged into. If not, say, due to some problem other than power, like the USB device **102** being of a non-supported class, in a step **160** the USB device **102** either observes that the USB port **14** is in the suspended state or that the USB host **12** has simply not timely responded. This then indicates to the USB device **102** that its configuration was not successful. The USB device **102** can now report the configuration failure through its user interface and abandon USB enumeration until the next insertion of the USB cable **16** is detected.

[0044] Alternately, in a step **162** the USB device **102** observes that it has been configured and it starts ramping up its use of current over and above the 100 mA supported for low-power USB devices. Various conventional mechanisms exist in many USB devices **18**, **102** that can be used to ramp up and down the current drawn. For instance, if a device **102** includes a battery charger, this can often be controlled by the circuitry **104** in fine enough increments that the detection mechanism **106** can detect voltage sag on the VBUS **28** below the level called for in the USB specification. Also, many USB devices **18**, **102** have multiple ways to control current drain by controlling the utilitarian functions they provide. For instance, a USB device **102** here can ramp-ably change clock speeds, perhaps starting be de-clocking subsystems that are not in use when the USB device **102** is first connected.

not functions used on Start-up

[0045] In a step **164** the USB device **102** determines if it has ramped up its use of power to its full needs. If so, in a step **166** the USB device **102** is effectively configured for "High Power" and all is well. If not, in a step **168** the USB device **102** determines with the detection mechanism **106** if there is a voltage sag on the VBUS **28**. If not, step **162** is returned to and further ramping up of the power level is undertaken.

[0046] Alternately now, if a voltage sag is detected, in a step **170** the USB device **102** immediately removes the

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In re Patent No. 6648222
Issue Date: November 18,2003
Application No. 10260445
Filed: September 27,2002
Attorney Docket No. 3917P2543CIP

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

This is a decision on the electronic petition, filed March 7,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 7,2008 . 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.

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)
6648222	2003-11-18	10260445	2002-09-27	

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

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
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	/Ian McDonald/	Date (YYYY-MM-DD)	2008-03-06
Name	Ian McDonald		

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Oct. 21, 2008

TO SPE OF : ART UNIT 1625
SUBJECT : Request for Certificate of Correction for Appl. No.:/10/260448 /7071211

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

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

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

Comments: _____

/Janet L. Andres/
Supervisory Patent Examiner Art Unit 1625

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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OGILVY RENAULT
1981 MCGILL COLLEGE AVE., SUITE 1600
MONTREAL, QC H3A2-Y3

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OFFICE OF PETITIONS

In re Application of :
Murray Mortson, et al. :
Application No. 10/260,465 : DECISION ON REQUEST
Filed: October 1, 2002 : TO WITHDRAW
Attorney Docket No. 9-16092-1US : 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 25, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others and include a proper reason for the withdrawal as set forth in 37 CFR 10.40(b) or (c). A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40, since no reasons for withdrawal have been provided. 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.

While assignee attempted to intervene in the above-identified application, the power of attorney filed January 14, 2003 does not comply with 37 CFR 3.73(b) in that the reel and frame number where the recorded assignment appears in the assignment records of the USPTO have not been provided. It is also noted that the power of attorney filed by the assignee on April 14, 2006 is not in compliance with 37 CFR 3.73(b). In order for the power of attorney to be acceptable, compliance with 37 CFR 3.73(b) must be satisfied. A form for complying with the provisions of 37 CFR 3.73(b) may be found on the USPTO.gov website (Form No. PTO/SB/96).

A courtesy copy of this decision is being mailed to the address noted on the request, as well as the address noted in the power of attorney filed April 14, 2006.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

cc: AIRBORNE TECHNOLOGY INC.
ATTENTION: RONEY MCCANN
#205-6223-2ND STREET, S.E.
CALGARY, ALBERTA T2H 1J5
CANADA

BENNETT JONES
C/O MS ROSEANN CALDWELL
4500 BANKERS HALL EAST
855 - 2ND STREET, SW
CALGARY AB T2P 4K7 CA CANADA

UNITED STATES 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 AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202

COPY MAILED

MAR 23 2004

OFFICE OF PETITIONS

In re Application of :
Wai Hui :
Application No. 10/260,475 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. 2030.56 :

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on February 13, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to 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 3712 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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OIW 01-05

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

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JAN 0 6 2005

OFFICE OF PETITIONS

In re Application of	:
Shimomura et al.	: DECISION DISMISSING
Application No. 10/260,513	: PETITION
Filed: 1 October, 2002	:
Atty Docket No. 03500.013166.2	:

This is a decision on the petition filed under 37 CFR 1.182 on 7 December, 2004, requesting that a terminal disclaimer filed in the above-identified application be withdrawn.

The petition is dismissed.

The present petition requests that the terminal disclaimer filed on 16 July, 2004, be withdrawn because it was no longer applicable.

The petition is dismissed because the examiner has been consulted and has determined that the terminal disclaimer is still applicable to at least one claim.

In light of the examiner's finding, the terminal disclaimer will not be withdrawn or nullified.

As the petition has been considered, the petition fee of $400.00 will be charged to counsel's deposit account, No. 06-1205, as authorized in the present petition.

The application file is being referred to Technology Center 2853 for further processing.

Telephone inquires should be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FISH & RICHARDSON P.C.
1425 K Street, N.W.
11th Floor
Washington, DC 20005-3500

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FROM DIRECTORS OFFICE

MAR 16 2005

TECHNOLOGY CENTER 3600

In re Application of
Mary K. DePrez et al
Application No. 10/260,527
Filed: October 1,2002
For: DRIVE-BY-WIRELESS VEHICLE CONTROL

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on November 24, 2004.

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

☒ Postcard receipt being dated March 29, 2004.

☐ 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 _____ and supported by a statement under 37 C.F.R. 1.8(b)(3).

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

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

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

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

KJD/jwk: 3/8/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3640

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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KEVIN R. SPIVAK
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN VA 22102

COPY MAILED

JUN 28 2007

OFFICE OF PETITIONS

In re Application of :

BERG, Andreas et al. :
Application No. 10/260,529 : DECISION ON PETITION
Filed: October 01, 2002 : TO WITHDRAW
Attorney Docket No. **449122041500** : 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 **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 Deborah S. Gladstein on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ANDREAS BERG**
SEEGEFELDER WEG 262A
BERLIN, GERMANY 13591

cc: **KEVIN SPIVAK, BELL BOYD & LLOYD LLC**
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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MAY 04 2007

OFFICE OF PETITIONS

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

In re Patent No. 7,181,747 :
Issued: February 20, 2007 : LETTER REGARDING PTA
Application No. 10/260,555 :
Filed: October 1, 2002 :
Atty. Dkt. No.: 01807.002106 :

This letter is in response to the "COMMENTS ON DETERMINATION OF PATENT TERM ADJUSTMENT," filed March 29, 2007. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The above-identified application matured into U.S. Patent No. 7,1817,747 on February 20, 2007. The patent issued with a patent term adjustment (PTA) of 709 days. Patentees indicate that the adjustment of 709 days is thought to be longer than appropriate, but do not set forth any specific error in the adjustment.

A careful review of the application history does not reveal an error in the adjustment. The adjustment of 745 under 37 CFR 1.702(a)(1) was reduced 36 days in accordance with 37 CFR 1.704(c)(10).

Accordingly, at the time of issuance, the patent was entitled to an adjustment of 709 days, as indicated on the patent.

Patentees are invited, if appropriate, to submit a response setting forth with specificity the perceived error in the patent term adjustment calculation.

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection to this matter.

Applicants are given 30 days to file a request for reconsideration of the instant decision. No additional time will be granted under 37 CFR 1.136.

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

Kery A. Fries

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

SPE Silverman

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/260,556

Paper No.: _____

DATE : 2/9/06

TO SPE OF : ART UNIT 1754

SUBJECT : Request for Certificate of Correction on Patent No.: 6953564

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

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

Lamonte M. Newsome

Thank You For Your Assistance

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

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

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

Comments:

_____

_____

_____

_____

_____

_____ 1754
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAY 17 2005

OFFICE OF PETITIONS

In re Application of :
Takashi Iwaki :
Application No. 10/260,557 : ON PETITION
Filed: October 1, 2002 :
Attorney Docket No. 03500.016791. :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 12, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 2879 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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FEB 12 2007

OFFICE OF PETITIONS

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

In re Application of
Takashi Iwaki
Application No. 10/260,557
Filed: October 1, 2002
Attorney Docket No. 03500.016791

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

This is a decision on applicant's petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue. This petition has been forwarded to the Acting Director of the Office of Patent Legal Administration for decision.

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

REVIEW OF THE FACTS

- On January 12, 2005, a notice of allowance was mailed, requiring an issue fee payment on or before April 12, 2005. The issue fee payment was timely received on April 5, 2005.
- On May 12, 2005, a petition to withdraw from issue under 37 CFR 1.313(c)(2), a Request for Continued Examination (RCE) under 37 CFR 1.114, and an information disclosure statement, were received.
- On May 17, 2005, the petition to withdraw from issue under 37 CFR 1.313(c)(2) was granted, and the application was forwarded to the Technology Center AU 2879 for processing of the RCE and the information disclosure statement.
- On June 24, 2005, a nonfinal rejection was mailed.
- On September 26, 2005, an amendment after nonfinal rejection was received.
- On December 2, 2005, a notice of allowance was mailed, requiring the receipt of a completed part B of the fee(s) transmittal form (PTOL-85) on or before March 2, 2006.
- On January 24, 2006, U.S. Patent 6,988,922 issued.
- On January 27, 2006, the Office *sua sponte* withdrew U.S. Patent 6,988,922 from issue.

- On February 21, 2006, the following erratum was published in the *Official Gazette*:

  "All reference to Patent No. 6,988,922 to Takashi Iwaki of Tokyo, Japan for METHODS OF MANUFACTURING ELECTRON-EMITTING DEVICE, ELECTRON SOURCE, AND IMAGE FORMING APPARATUS appearing in the Official Gazette of January 24, 2006 should be deleted since no patent was granted."

- On March 2, 2006, the issue fee payment was timely received.

- On March 9, 2006, the present petition to withdraw the application from issue under 37 CFR 1.313(c)(2), the request for continued examination (RCE) under 37 CFR 1.114, and a preliminary amendment, were received.

DECISION

The petitioner states that the present application issued prematurely as U.S. Patent 6,988,922 because the petitioner had not returned part B of the fee(s) transmittal form, PTOL-85, before the issuance of the patent on January 24, 2006. The petitioner correctly notes that the Office had *sua sponte* withdrawn the patent from issue on January 27, 2006, and that part B of the PTOL-85 form was returned by the March 2, 2006 deadline date due to the advice provided by the USPTO Office of Patent Legal Administration that the patent would not be withdrawn. The petitioner requests that the present application be withdrawn from issue.[1]

35 U.S.C. 151 provides, in pertinent part:

> The notice [of allowance] shall specify a sum, constituting the issue fee or a portion thereof, which shall be paid within three months thereafter.

The issue fee in the present case had been previously paid in response to the notice of allowance mailed January 12, 2005. Since no additional issue fee was due in reply to the subsequent notice of allowance mailed on December 2, 2005, U.S. Patent 6,988,922 validly issued in conformance with the provisions of 35 U.S.C. 151.[2]

Because the patent had appropriately issued, the Office had no authority to withdraw the patent from issue on January 27, 2006 and to publish the erratum in the Official Gazette on February

---

[1] The petitioner states that Ms. Cynthia Nessler of the Office of Patent Legal Administration tentatively agreed that this petition would be granted. No tentative agreement, however, was reached. Ms. Nessler warned petitioner that the petition may not be granted.

[2] Pursuant to *Revision of the Notice of Allowance and Fee(s) Due Form (PTOL-85) Concerning a Previously Paid Issue Fee,* 1308 *Off. Gaz. Pat. Office* 60, July 11, 2006, applicant must return Part B of for PTOL-85, or an equivalent, after the mailing of a notice of allowance, in order to authorize reapplication of a previously paid issue fee in an application that has not yet issued. Once the patent issues, however, this requirement is moot.

21, 2006. Furthermore, because the issuance of the patent was valid, the Office has no authority to grant the present petition to withdraw from issue.

For the reasons given above, the petition under 37 CFR 1.313(c)(2) to withdraw the application from issue is dismissed.

In addition, petitioner correctly states that the Office erroneously printed the patent with the originally filed claims instead of the allowed version of the claims. To rectify this error, the Office proposes to issue the attached certificate of correction, which corrects the originally filed claims to accurately reflect the allowed version. See 35 U.S.C. 254 and 37 CFR 1.322.

Attention is also drawn to the amendment filed September 26, 2005, which presents the allowed version of the claims. The amendment to lines 8-9 of claim 1, which inserts the language "patterned by the *pattering,*" appears to have a typographical error, i.e., "pattering" instead of "patterning." Because the attached certificate of correction reflects the allowed version of the claims, applicant is notified that this apparent typographical error is included in the certificate of correction.

CONCLUSION

Because the patent validly issued, the present petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue is **dismissed.**

Petitioner is given a period of **two (2) months** with which to file a response to this decision. This time limit is not extendible.

If no response is received from applicant, the Office will issue the attached certificate of correction, the amendment and the Request for Continued Examination (RCE) which accompanied the present petition will be placed in the file but will not be further treated on the merits, and the following will be published in the Official Gazette:

> "In the errata appearing in the Official Gazette of February 21, 2006, all reference to Patent No. 6,988,922 appearing in the Official Gazette of January 24, 2006, was INCORRECTLY listed as having been deleted. U.S. Patent 6,988,922 to Takashi Iwaki of Tokyo, Japan for METHODS OF MANUFACTURING ELECTRON-EMITTING DEVICE, ELECTRON SOURCE, AND IMAGE FORMING APPARATUS was properly granted on January 24, 2006."

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

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

By mail: Mail Stop Petition
Commissioner for Patents
Office of Patent Legal Administration
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Patent Legal Administration

By hand: Customer Service Window
Attn.: Office of Patent Legal Administration
Randolph Building, Lobby Level
401 Dulany St.
Alexandria, VA 22314

Any questions concerning this matter may be directed to Cynthia L. Nessler, Senior Legal Advisor, Office of Patent Legal Administration, at (571) 272-7724.

Robert A. Clarke
Acting Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Attachments: Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,988,922

DATED : January 24, 2006

INVENTOR(S) : Takashi Iwaki

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 20, line 1, claim 1, replace "patterned polymer film" with – polymer film, patterned by the pattering, --.

Column 20, line 2, claim 1, replace "a resistance-lowered" with – an electrically conductive carbon polymer --.

Column 20, line 3, claim 1, replace "resistance-lowered" with – electrically conductive carbon polymer --.

Column 20, line 25, claim 6, replace "patterned polymer film" with – polymer film, patterned by the patterning, --.

Column 20, line 30, claim 7, replace "patterned polymer film" with – polymer film, patterned by the patterning --.

Column 20, line 34, claim 8, replace "patterned polymer film" with – polymer film, patterned by the patterning --.

Column 20, line 38, claim 9, replace "patterned polymer film" with – polymer film, patterned by the patterning --.

Column 20, line 42, claim 10, replace "patterned polymer film" with – polymer film, patterned by the patterning --.

Column 20, line 45, claim 11, replace "resistance-lowered" with – electrically conductive carbon polymer --.

Column 20, line 46, claim 11, delete "resistance-" .

Column 20, line 47, claim 11, replace "lowered" with – electrically conductive carbon polymer -- .

Column 20, line 54, claim 13, after "composed of", delete the colon.

Column 20, line 56, claim 13, after "devices", replace the semicolon with a comma.

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,988,922

DATED : January 24, 2006

INVENTOR(S) : Takashi Iwaki

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 20, line 1, claim 1, replace "patterned polymer film" with – polymer film, patterned by the pattering, --.

Column 20, line 2, claim 1, replace "a resistance-lowered" with – an electrically conductive carbon polymer --.

Column 20, line 3, claim 1, replace "resistance-lowered" with – electrically conductive carbon polymer --.

Column 20, line 25, claim 6, replace "patterned polymer film" with – polymer film, patterned by the patterning, --.

Column 20, line 30, claim 7, replace "patterned polymer film" with – polymer film, patterned by the patterning --.

Column 20, line 34, claim 8, replace "patterned polymer film" with – polymer film, patterned by the patterning --.

Column 20, line 38, claim 9, replace "patterned polymer film" with – polymer film, patterned by the patterning --.

Column 20, line 42, claim 10, replace "patterned polymer film" with – polymer film, patterned by the patterning --.

Column 20, line 45, claim 11, replace "resistance-lowered" with – electrically conductive carbon polymer --.

Column 20, line 46, claim 11, delete "resistance-" .

Column 20, line 47, claim 11, replace "lowered" with – electrically conductive carbon polymer -- .

Column 20, line 54, claim 13, after "composed of", delete the colon.

Column 20, line 56, claim 13, after "devices", replace the semicolon with a comma.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7-02-07 **Paper No.:** _____

TO SPE OF : ART UNIT 1761

SUBJECT : Request for Certificate of Correction for Appl. No. 6936289 B2 (10/260578

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

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

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

Please reply A/S/A/P Thanks

E. M. James
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

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

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

Comments: _____

KEITH HENDRICKS
PRIMARY EXAMINER
SPE

1761
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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PAUL A. GUSS
PAUL A. GUSS ATTORNEY AT LAW
775 S 23RD ST FIRST FLOOR SUITE 2
ARLINGTON, VA 22202

FAX RECEIVED
CANCELLED
FEB 08 2005

OFFICE OF PETITIONS
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In re Application of :
Shigekazu Nagai, et al. :
Application No. 10/260,579 : ON PETITION FEB 08 2005
Filed: October 1, 2002 :
Attorney Docket No. CS-36-020930 :

OFFICE OF PETITIONS

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

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

The application is being referred to Technology Center AU 3753 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Cochran Freund & Young, LLC
3555 Stanford Road
Suite 230
Fort Collins, CO 80525

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JUL 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Zach Nies, et. al. :
Application No. 10/260,587 : ON PETITION
Filed: September 27, 2002 :
Attorney Docket No. 6Degrees :

This is a decision on the petition under 37 CFR 1.137(b), filed July 12, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed November 4, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight January 4, 2003.

In response, petitioner submitted with the instant petition $1,330 for the petition to revive fee and eleven (11) sheets of drawings containing Figures 1-11.

The petition is **GRANTED**.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6711.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JUL 21 2006
OFFICE OF PETITIONS

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

Paper No. 9

In re Application of :
Eyal Eliav :
Application No. 10/260,620 : ON PETITION
Filed: September 27, 2002 :
Attorney Docket No. IR 6892-00 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 03, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed November 01, 2002, which set a shortened statutory period for reply of two (2) months. A four (4) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on May 02, 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 the required fees and corrected drawings; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of November 01, 2002 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.

The request for Revocation and New Power of Attorney, filed May 03, 2006, can not be granted because it does not comply with the provisions of 37 CFR 1.36, 3.71(b) and 3.73(b). A form for complying with the provisions of 37 CFR 3.73(b) may be found on the USPTO.gov website (Form No. PTO/5B/96).

Telephone inquiries concerning this decision should be directed to Mikhail Kornakov at (571) 272-1303 or in his absence, the undersigned at (571) 272-7099.

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

David A. Bucci
Petitions Examiner
Office of Petitions

cc:

COLGATE-PALMOLIVE COMPANY
909 RIVER ROAD
PISCATAWAY, NJ 08855

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

MAR 14 2007

Technology Center 2100

In re Application of:	)	
Application No. 10/260,627	)	DECISION ON PETITION FOR
Attorney Docket No. 450117-04043	)	SUPERVISORY REVIEW
Filed: September 27, 2002	)	UNDER *37 CFR §1.181*
For: DIGITAL FILTER REALIZATION	)	
	)	

This is in response to the petition originally received in the Office May 12, 2006 (copy received in the Office July 7, 2006) under 37 CFR §1.181, for full consideration and acknowledgement of Information Disclosure Statement (IDS) filed September 27, 2002.

A review of the application file record indicates that Applicant filed an Information Disclosure Statement on September 27, 2002. A non-final rejection was mailed to applicant on November 21, 2005 along with a copy of the PTO-1449, on which examiner initialed all but reference "AR".

Petitioner requests Examiner's consideration of reference "AR" on said IDS and a fully-initialed PTO-1449 form indicating the Examiner's consideration of all references cited on said IDS.

The pertinent sections of MPEP are as follows:

37 CFR 1.97 Filing of information disclosure statement.

(a) In order for an applicant for a patent or for a reissue of a patent to have an information disclosure statement in compliance with § 1.98 considered by the Office during the pendency of the application, the information disclosure statement must satisfy one of paragraphs (b), (c), or (d) of this section.

(b) An information disclosure statement shall be considered by the Office if filed by the applicant within any one of the following time periods:

(1) Within three months of the filing date of a national application other than a continued prosecution application under § 1.53(d);

(2) Within three months of the date of entry of the national stage as set forth in § 1.491 in an international application;

(3) Before the mailing of a first Office action on the merits; or

(4) Before the mailing of a first Office action after the filing of a request for continued examination under § 1.114.

.....

.....

(e) A statement under this section must state either:

(1) 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 foreign application not more than three months prior to the filing of the information disclosure statement; or

(2) That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the information disclosure statement.

§ 1.98 Content of information disclosure statement.

(a) Any information disclosure statement filed under § 1.97 shall include the items listed in paragraphs (a)(1), (a)(2) and (a)(3) of this section.

(1) A list of all patents, publications, applications, or other information submitted for consideration by the Office. U.S. patents and U.S. patent application publications must be listed in a section separately from citations of other documents. Each page of the list must include:

(i) The application number of the application in which the information disclosure statement is being submitted;

(ii) A column that provides a space, next to each document to be considered, for the examiner's initials; and

(iii) A heading that clearly indicates that the list is an information disclosure statement.

(2) A legible copy of:

(i) Each foreign patent;

(ii) Each publication or that portion which caused it to be listed, other than U.S. patents and U.S. patent application publications unless required by the Office;

(iii) For each cited pending unpublished U.S. application, the application specification including the claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion; and

(iv) All other information or that portion which caused it to be listed.

(3)

(i) A concise explanation of the relevance, as it is presently understood by the individual designated in § 1.56(c) most knowledgeable about the content of the information, of each patent, publication, or other information listed that is not in the English language. The concise explanation may be either separate from applicant's specification or incorporated therein.

(ii) A copy of the translation if a written English-language translation of a non-English-language document, or portion thereof, is within the possession, custody, or control of, or is readily available to any individual designated in § 1.56(c).

(b)

(1) Each U.S. patent listed in an information disclosure statement must be identified by inventor, patent number, and issue date.

(2) Each U.S. patent application publication listed in an information disclosure statement shall be identified by applicant, patent application publication number, and publication date.

(3) Each U.S. application listed in an information disclosure statement must be identified by the inventor, application number, and filing date.

(4) Each foreign patent or published foreign patent application listed in an information disclosure statement must be identified by the country or patent office which issued the patent or published the application, an appropriate document number, and the publication date indicated on the patent or published application.

(5) Each publication listed in an information disclosure statement must be identified by publisher, author (if any), title, relevant pages of the publication, date, and place of publication.

(c) When the disclosures of two or more patents or publications listed in an information disclosure statement are substantively cumulative, a copy of one of the patents or publications as specified in paragraph (a) of this section may be submitted without copies of the other patents or publications, provided that it is stated that these other patents or publications are cumulative.

(d) A copy of any patent, publication, pending U.S. application or other information, as specified in paragraph (a) of this section, listed in an information disclosure statement is required to be provided, even if the patent, publication, pending U.S. application or other information was previously submitted to, or cited by, the Office in an earlier application, unless:

(1) The earlier application is properly identified in the information disclosure statement and is relied on for an earlier effective filing date under 35 U.S.C. 120; and

(2) The information disclosure statement submitted in the earlier application complies with paragraphs (a) through (c) of this section

The IDS filed on September 27, 2002 complies with the requirements of 37 CFR 1.97 and 1.98.

The petition is **GRANTED**.

A copy of fully-initialed form PTO-1449 indicating that all references cited on the IDS filed September 27, 2002 including the "AR" reference have been considered by the Examiner is being attached herewith.

Any inquiries related to this decision may be directed to the undersigned at (571) 272-3719.

Kakali Chaki, WQAS
Technology Center 2100
Computer Architecture, Software, and Information Security

Attachment : Copy of fully initialed PTO-1449

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SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON OH 44718-3615

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AUG 31 2007

OFFICE OF PETITIONS

In re Application of :
Thiruppathi, Davaraj :
Application No. 10/260,635 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. 1476001US1AP :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 3, 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 the Issue Fee Transmittal with payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

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 contains a valid OMB control number.

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

Application Number	10/260,636
Filing Date	September 27,2002
First Named Inventor	Eric B. Kmiec
Art Unit	1634
Examiner Name	Lu, Frank Wei Min
Attorney Docket Number	41428-0112 US

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

APPROVED
10/13/05
WILLIAM R. DIXON, JR.
SPECIAL PROGRAM EXAMINER

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

☑ 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: Client requested transfer of responsibility for application to new counsel

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	Basil S. Krikelis, McCarter & English LLP				
Address	919 N. Market Street, Suite 1800				
Address	P.O. Box 111				
City	Wilmington	State	DE	ZIP	19899
Country	United States of America				
Telephone	302-984-6300	Fax	302-984-6399		

Name	Daniel M. Becker		
Signature		Registration No.	38,376
Date	April 14, 2005	Telephone	650-324-7014

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 C.F.R. 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 C.F.R. 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 by 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.

SV 2114774 v1 4/14/05 9:10 AM (41428.0001)

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MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO, IL 60606

Mail Date: 04/20/2010

Applicant	: Mark Leon Strauss	: DECISION ON REQUEST FOR
Patent Number	: 7610237	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/260,644	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/30/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1573** 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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OCT 2 2 2008

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S)	:	John T. Maxwell, III et al.
FOR	:	**GENERATING WITH LEXICAL FUNCTIONAL GRAMMARS**
PATENT NO.	:	US 7,225,121 B2
ISSUED	:	May 29, 2007
EXAMINER	:	Myriam Pierre
ART UNIT	:	2626
CONFIRMATION NO.	:	9172
ATTORNEY DOCKET NO.	:	A1040-US-NP XERZ 2 01594

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR APPLICANTS' MISTAKE TO CORRECT THE NAME OF THE ASSIGNEE (37 C.F.R. § 1.323 and 37 C.F.R. § 3.81(b))

ATTENTION: OFFICE OF PETITIONS
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants hereby request that a Certificate of Correction be issued to correct the name of the Assignee. The Assignment to **Xerox Corporation** was submitted for recordation as set forth in 37 C.F.R. § 3.11 on September 27, 2002 well before issuance of the patent on May 29, 2007. The Assignment was recorded in the U.S. Patent and Trademark Office on September 27, 2002 at Reel/Frame 013355/0893.

It is noted that an error appears in this patent of a minor nature or character, as more fully described below. It occurred in good faith. Correction thereof does not involve such changes in the patent as would constitute new matter or would require re-examination. A Certificate of Correction in the name of the Assignee is requested.

10/22/2008 HMARZI2 00000002 240037 7225121
01 FC:1811 100.00 DA

PAGE 1/5 * RCVD AT 10/22/2008 11:36:19 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/9 * DNIS:2738300 * CSID:2162411666 * DURATION (mm-ss):01-54

10/22/2008 HMARZI2 00000002 240037 7225121
02 FC:1464 130.00 DA

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OCT 2 2 2008

An error occurred on the Fee(s) Transmittal form, where Applicants attorney inadvertently entered the name and residence of the Assignee as "Palo Alto Research Center Incorporated, Palo Alto, California (US)".

Submitted hereto, in duplicate, is PTO/SB/44, with at least one copy being suitable for printing.

The exact page and line (or Field) in the printed patent where the error occurs is:

First Page

(73) Assignee: Palo Alto Research Center Incorporated *[should be Xerox Corporation],*
Palo Alto, CA (US) *[should be Norwalk, CT (US)]*

Please send the Certificate to:

Mark S. Svat, Esq.
Fay Sharpe LLP
1100 Superior Avenue
Seventh Floor
Cleveland, Ohio 44114-2579

A fee in the amount of $130.00 to cover the processing fee required by 37 C.F.R. § 1.17(i) is being submitted via the EFS web. The fee of $100.00 as set forth in 37 C.F.R. § 1.20(a) to cover the Request for Certificate of Correction Under 37 C.F.R. § 1.323 was previously submitted on June 19, 2007. Please charge any additional fees required by this paper or credit any overpayment to Deposit Account No. 24-0037.

PAGE 2/5 * RCVD AT 10/22/2008 11:36:19 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/9 * DNIS:2738300 * CSID:2162411666 * DURATION (mm-ss):01-54

Respectfully submitted,

FAY SHARPE LLP

10-22-08
Date

Mark S. Svat, Reg. No. 34,261
1100 Superior Avenue, Seventh Floor
Cleveland, OH 44114-2579
216-861-5582

CERTIFICATE OF MAILING OR TRANSMISSION	
I hereby certify that this correspondence (and any item referred to herein as being attached or enclosed) is (are) being ☒ transmitted to the USPTO via facsimile (571-273-8300) on the date indicated below.	
	Signature: Karen Forsyth
Date: 10-22-08	Name: Karen M. Forsyth

PAGE 3/5 * RCVD AT 10/22/2008 11:36:19 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/9 * DNIS:2738300 * CSID:2162411666 * DURATION (mm-ss):01-54

PTO/SB/44 (08-07)
Approved for use through 06/30/2007. OMB 0651-0033
U.S. 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. : 7,225,121 B2

APPLICATION NO.: 10/260,652

ISSUE DATE : May 29, 2007

INVENTOR(S) : Maxwell, III et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

(73) Assignee: Xerox Corporation,
Norwalk, CT (US)

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Fay Sharpe LLP
1100 Superior Avenue - 7th Floor
Cleveland, OH 44114-2579

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

PTO/SB/44 (06-07)
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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,225,121 B2

APPLICATION NO.: 10/260,652

ISSUE DATE : May 29, 2007

INVENTOR(S) : Maxwell, III et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

(73) Assignee: Xerox Corporation,
Norwalk, CT (US)

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Fay Sharpe LLP
1100 Superior Avenue - 7th Floor
Cleveland, OH 44114-2579

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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OCT 2 7 2008

OFFICE OF PETITIONS

In re Patent No. 7,225,121 :
Issue Date: May 29, 2007 :
Application No. 10/260,652 : ON PETITION
Filed: September 27, 2002 :
Attorney Docket No. D/A1040 :

This is a decision on the petition filed June 19, 2007, which is being treated as a petition under 37 CFR 3.81(b)[1] to change the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Mark S. Svat
Fay Sharpe LLP
1100 Superior Avenue, Seventh Floor
Cleveland, OH 44114-2579

[1] See Official Gazette of June 22, 2004

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

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JUN 27 2005

OFFICE OF PETITIONS

In re Application of :
Ji-Heum Uh et al :
Application No. 10/260,664 : ON PETITION
Filed: October 1, 2002 :
Attorney Docket No. 8733.711.00 :

This is a decision on the petition, filed June 21, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on May 12, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3723 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : June 27, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s)	:Ji-Heum Uh et al
Application No.	:10/260,664
Filed	:October 1, 2002

The above-identified application has been assigned Patent No. 6,910,950 and an issue date of June 28, 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 June 28, 2005:

> "All reference to Patent No. 6,910,950 to Ji-Heum Uh et al of October 1, 2002 for APPARATUS AND METHOD FOR FABRICATING LIQUID CRYSTAL DISPLAY PANEL appearing in the Official Gazette of June 28, 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
www.uspto.gov

JUN - 9 2004

In re Application of	:	
Allan Walker	:	NOTICE OF WITHDRAWAL
Serial No. 10/260,665	:	FROM ISSUE
Filed: September 30, 2002	:	UNDER 37 CFR 1.313(b)
For: INK JET RECORDING ELEMENT	:	

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 Cynthia Kelly (571) 272-1526.

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 A. Leipold
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

cc: Allowed Files—Pk3-915

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN - 9 2004

In re Application of	:	
Allan Walker	:	NOTICE OF WITHDRAWAL
Serial No. 10/260,665	:	FROM ISSUE
Filed: September 30, 2002	:	UNDER 37 CFR 1.313(b)
For: INK JET RECORDING ELEMENT	:	

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 Cynthia Kelly (571) 272-1526.

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 A. Leipold
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

cc: Allowed Files—Pk3-915

RECEIVED
JUN 18 2004
OIPE/JCMS

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/14/09

TO SPE OF : ART UNIT 2436 Parthasarathy, Pramila

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/260679 Patent No.: 7170577

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

/Nasser Moazzami/ — **SPE**

2436 — **Art Unit**

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MEDTRONIC, INC.
710 MEDTRONIC PARK
MINNEAPOLIS MN 55432-9924

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JAN 12 2006

OFFICE OF PETITIONS

In re Application of :
Schott, Norton and Schmidt :
Application No. 10/260,682 :
Filed: September 30, 2002 :
Attorney Docket No. P10085.00 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed October 4, 2005, to change the order of the names of the inventors.

The petition is **granted**.

The Office has changed the order of the names of the inventors in the USPTO computer records as follows:

1. Joachim Hossick-Schott
2. John D. Norton
3. Craig L. Schmidt

A corrected filing receipt, reflecting the above-noted change, accompanies this decision.

This matter is being referred to the Office of Patent Publications.

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

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MYERS & KAPLAN,
INTELLECTUAL PROPERTY LAW, L.L.C.
1899 Powers Ferry Road
Suite 310
Atlanta, GA 30339

COPY MAILED

SEP 19 2006

OFFICE OF PETITIONS

In re Application of :
VERBICKIS, et al. :
Application No. 10/260,687 : DECISION ON PETITION
Filed: February 13, 2002 : TO WITHDRAW
Attorney Docket No. 27630-RA : 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 29, 2006.

The request is **APPROVED**.

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

The request was signed by Sandra M. Drummond, Esq. on behalf of all attorneys of record who are associated with customer No. 30184.

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.

A Review of the file discloses that a non-final Office action was mailed on May 04, 2006, which set forth a three month shortened statutory period for reply. Extensions of time under 37 CFR 1.136(a) were available. To date, there is no indication that a reply to the Office action of May 04, 2006 has been received.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: Leonidas Verbickis
Sandweg 28
Frankfurt am Main
GERMANY D60316

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/260,687	02/13/2002	Leonidas Verbickis	27630-RA

CONFIRMATION NO. 9638

OC000000020464241

30184
MYERS & KAPLAN, INTELLECTUAL PROPERTY LAW, L.L.C.
1899 POWERS FERRY ROAD
SUITE 310
ATLANTA, GA 30339

Date Mailed: 09/18/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/29/2006.

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

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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KEITH FRANTZ
401 WEST STATE STREET
SUITE 200
ROCKFORD, IL 61101

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MAY 31 2007

OFFICE OF PETITIONS

In re Application of
Verbickis, Leonidas et al.
Application No. 10/260,687
Filed: February 13, 2002
Attorney Docket No.

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 27, 2007.

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

A review of the file record indicates that the power of attorney to Keith Frantz has been revoked by the applicant of the patent application on May 10, 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 Michelle R. Eason at 571-272-4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **KING & SCHICKLI, PLLC**
247 NORTH BROADWAY
LEXINGTON KY 40507

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Mark V. Muller
Schwegman, Lundberg, Woessner & Kluth
P.O. Box 2938
Minneapolis, MN 55402

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APR 18 2007

OFFICE OF PETITIONS

In re Application of
Shivnandan D. Kaushik et al.
Application No. 10/260,709
Filed: September 30, 2002
Attorney Docket No. 884.676US1

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 21, 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 Mark K. Muller on behalf of all attorneys of record who are associated with customer No. 45457. All attorneys/agents associated with the Customer Number 45457 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. Accordingly, all correspondence will be mailed to the first named inventor Shivnandan D. Kaushik. A courtesy copy of this decision will be mailed to Martha Peralez with Intel Corporation as indicated in the request to withdraw. If this company desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Shivnandan D. Kaushik
15417 NW Blakely Lane
Portland, OR 97229

cc: Martha Peralez
Intel Corporation
MS SC4-202
2200 Mission College Boulevard
Santa Clara, CA 95052

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 NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/260,709	09/30/2002	Shivnandan D. Kaushik	884.676US1

CONFIRMATION NO. 6788

OC000000023390815

45457
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH/Intel
PO BOX 2938
MINNEAPOLIS, MN 55402

Date Mailed: 04/16/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/21/2007.

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

Kimberly Drabenet

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

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APR 30 2007
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Mark V. Muller
Schwegman, Lundberg, Woessner & Kluth
P.O. Box 2938
Minneapolis, MN 55402

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APR 18 2007

OFFICE OF PETITIONS

In re Application of
Shivnandan D. Kaushik et al.
Application No. 10/260,709
Filed: September 30, 2002
Attorney Docket No. 884.676US1

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 21, 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 Mark K. Muller on behalf of all attorneys of record who are associated with customer No. 45457. All attorneys/agents associated with the Customer Number 45457 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. Accordingly, all correspondence will be mailed to the first named inventor Shivnandan D. Kaushik. A courtesy copy of this decision will be mailed to Martha Peralez with Intel Corporation as indicated in the request to withdraw. If this company desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Shivnandan D. Kaushik
15417 NW Blakely Lane
Portland, OR 97229

cc: Martha Peralez
Intel Corporation
MS SC4-202
2200 Mission College Boulevard
Santa Clara, CA 95052

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/260,709	09/30/2002	Shivnandan D. Kaushik	884.676US1

CONFIRMATION NO. 6788

45457
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH/Intel
PO BOX 2938
MINNEAPOLIS, MN 55402

OC000000023390815

Date Mailed: 04/16/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/21/2007.

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

Kimberly Drabenet

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

FORMER ATTORNEY/AGENT COPY

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INTEL CORPORATION
c/o INTELLEVATE, LLC
P.O. BOX 52050
MINNEAPOLIS MN 5540

In re Application of

Kaushik, et al.

Application No. 10/260,709

Filed: September 30, 2002

Attorney Docket No. 884.676US1

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MAR 14 2008

OFFICE OF PETITIONS

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed, February 26, 2008, 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 20, 2007, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on July 21, 2007. A Notice of Abandonment was mailed on November 23, 2007.

The amendment filed February 26, 2008, is noted.

The application is being forwarded to Technology Center 2100, GAU 2111 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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FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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JAN 19 2006

OFFICE OF PETITIONS

In re Application of :
Robert R. GONNELI :
Application No. 10/260,711 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. BVTP-P01-030 :

This is a decision on the petition under 37 CFR 1.181, filed September 15, 2005, requesting withdrawal of the Notice of Abandonment mailed July 13, 2005.

The petition is **GRANTED**.

Petitioner requests the Notice of Abandonment mailed July 13, 2005 for failure to respond to the Office action mailed January 11, 2005 be withdrawn as petitioner timely filed a response. As evidenced by the attached amendment with a certificate of mailing date of July 11, 2005 a response was timely filed, and as shown by the itemized copy of the post card receipt date stamped July 13, 2005 was received by the USPTO. Furthermore, a review of record indicates that the original copy of the response is now in the file.

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 3763 for appropriate action on the amendment filed July 13, 2005.

Brian Hearn
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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DIW Aug-05

WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE WA 99201

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AUG 0 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Tilton et al.	:	
Application No. 10/260,713	:	DECISION ON PETITION
Filed: 4 May, 2005	:	
Atty Docket No. IS9-019	:	

This is a decision on the petition filed on 7 July, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 9 February, 2005, for failure to timely reply to the non-final Office action mailed on 8 November, 2004, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a)

---

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

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

(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)).

were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

This application is being referred to Technology Center 3744 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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SPOKANE WA 99201

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JAN 12 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Charles L. Tilton et al :
Application No. 10/260,713 :
Filed: September 27, 2002 :
Attorney Docket No. IS9-019 :

This is a decision on the petition, filed January 4, 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 12, 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 3744 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE WA 99201

In re Application of :
Charles L. Tilton et al :
Application No. 10/260,713 : ON PETITION
Filed: September 27, 2002 :
Attorney Docket No. IS9-019 :

This is a decision on the petition, filed May 25, 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 25, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3744 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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TEXAS INSTRUMENTS INCORPORATED
P. O. BOX 655474, M/S 3999
DALLAS, TX 75265

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JUL 27 2007

OFFICE OF PETITIONS

In re Application of :
Eko N. Onggosanusi et al :
Application No. 10/260,761 : DECISION ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. TI-34194 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 27, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 15, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on February 16, 2007. A Notice of Abandonment was mailed on May 25, 2007.

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 (amendment) 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 reply to the final Office action of November 15, 2006 is accepted as being unintentionally delayed.

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

not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

This application is being referred to Technology Center AU 2611 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 received May 27, 2007.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Stephen L. Levine
14785 Preston Road
Suite 650
Dallas, TX 75254

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW May-06

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

COPY MAILED
MAY 16 2006
OFFICE OF PETITIONS

In re Application of :
Geoffrey C. Schmit :
Application No. 10/260,793 : DECISION ON PETITION
Filed: 30 September, 2002 :
Atty Docket No. 5150-68800 :

This is a decision on the petition filed on 27 January, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 7 September, 2005, for failure to timely submit the issue and publication fee(s) in response to the Notice of Allowance and Fee(s) Due mailed on 6 June, 2005, which set a three (3) month statutory period for reply. On 11 August, 2005, petitioner filed an Issue Fee transmittal form with authorization to charge counsel's deposit

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

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

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

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

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

account, but the deposit account did not contain sufficient funds to charge the issue and publication fees. Notice of Abandonment was mailed on 6 January, 2006.

The present petition is accompanied by authorization to charge the issue and publication fees to counsel's deposit account.

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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THOMAS V. DELROSARIO
SNELL & WILMER
ONE ARIZONA CENTER
400 E. VAN BUREN
PHOENIX AZ 85004-2202

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MAY 19 2008

OFFICE OF PETITIONS

In re Application of
Gelb, et al.
Application No.: 10/260,806
Filing Date: 30 September, 2002
Attorney Docket No. 40655.9000

DECISION

This is a decision on the petition filed on 30October, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

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

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

It appears that Petitioner has satisfied the requirements of the regulation, as set forth below:

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to a non-final Office action mailed on 20 February, 2007, with reply due absent extension of time on or before 20 May, 2007.

The application went abandoned by operation of law after midnight 20 May, 2007.

It does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed.

On 11 April, 2007, Petitioner submitted an amendment after final, which the Examiner refused to enter and Petitioner–as one registered to practice before the Office—knows is not as of right and not a proper reply if it does not *prima facie* place the application in condition for allowance, and on 26 October, 2007, the Examiner mailed an Advisory Action.

On 30 October, 2007, , Petitioner filed the instant petition (with fee) alleging unintentional delay under 37 C.F.R. §1.137(b), included therewith, *inter alia*, a reply in the form of a request for continued examination (RCE) and an amendment as the submission under 37 C.F.R. §1.114, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

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

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

CONCLUSION

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

The instant application is released to Technology Center/AU 2163 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center/AU OPAP where that change of status must be effected—that does not occur in the Office of Petitions.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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Paper No.

ZAGORIN O'BRIEN GRAHAM LLP
7600B N. CAPITAL OF TEXAS HWY.
SUITE 350
AUSTIN, TX 78731

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SEP 0 1 2005

OFFICE OF PETITIONS

In re Patent No. 6,883,149	:	
Li et al.	:	DECISION ON REQUEST FOR
Issue Date: April 19, 2005	:	RECONSIDERATION OF
Application No. 10/260,811	:	PATENT TERM ADJUSTMENT
Filed: September 30, 2002	:	and
Attorney Docket No. 004-7657	:	NOTICE OF INTENT TO
	:	ISSUE CERTIFICATE OF
	:	CORRECTION

This is a decision on the "Request for Reconsideration of Patent Term Adjustment Indicated on Issued Patent (37 C.F.R. § 1.705(d)" filed April 29, 2005. Patentees request that the patent term adjustment indicated in the patent be corrected from one hundred one (101) to one hundred fifty-nine (159) days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one hundred fifty-nine **(159)** days.

On April 19, 2005, the above-identified application matured into U.S. Patent No. 6,883,149. The instant request for reconsideration filed April 29, 2005 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 101 days. Patentees dispute the reduction of 58 days for the submission of a "Miscellaneous Incoming Paper" after the Notice of Allowance. Patentees state that this paper was a Comments on Statement of Reasons for Allowance.

Patentees' argument is well-taken. By Official Gazette Notice dated June 26, 2001, the Director has advised applicants and patentees that the filing after the mailing of a Notice of Allowance of a response to the examiner's reasons for allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and will not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10) *Clarification of 37 CFR*

1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance, 1247 OG 111 (June 26, 2001). A review of the application record confirms that the reduction of 58 days was based on the filing after allowance of a "Comments on Statement of Reasons for Allowance" filed October 29, 2004. Thus, it is concluded that the patent term adjustment should not have been reduced by 58 days.

In view thereof, the patent term adjustment indicated in the patent should have been 159 days.

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by ONE HUNDRED FIFTY-NINE (159) 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

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AUSTIN TX 78731

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APR 20 2005

OFFICE OF PETITIONS

Applicant: Li et al.
Appl. No.: 10/260,813
Filing Date: September 30, 2002
U.S. Patent No.: 6,871,332
Issue Date: March 22, 2005
Title: STRUCTURE AND METHOD FOR SEPARATING GEOMETRIES IN A DESIGN LAYOUT INTO MULTI-WIDE OBJECT CLASSES
Attorney Docket No.: 004-7660
Pub. No.: US 2004/0019862 A1
Pub. Date: January 29, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on March 29, 2004.

The request is DISMISSED as moot.

The instant request identifies an error in the published patent application publication. Since the application has already issued as U.S. Patent No. 6,871,332 on March 22, 2005, the request is deemed moot.

Inquiries relating to this matter may be directed to the undersigned at (571) 272-7709.

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

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Zagorin, O'Brian & Graham, L.L.P.
7600B N. Capitol Texas HWY, Ste. 350
Austin, Tx. 78731

Applicant: Mu-Jing Li
Appl. No.: 10/260,816
Filing Date: September 30, 2002
U.S. Patent No.: 6,832,360
Issue Date: December 14, 2004
Title: PURE FILL VIA AREA EXTRACTION IN A MULTI-WIDE OBJECT CLASS DESIGN LAYOUT
Attorney Docket No.: 044-7656
Pub. No.: US 2004/0064797 A1
Pub. Date: APRIL 1, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on May 19, 2004 for the above-identified application.

The instant request identifies errors in the published patent application publication. Since the application has already issued as a U.S. Patent the request is deemed moot.

The request is DISMISSED as moot.

Inquiries relating to this matter may be directed to Shelby Pittman at (703) 305-8169 (voice) or (703) 305-8568 (facsimile).

Shelby Pittman, for

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

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AUSTIN TX 78731

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APR 2 9 2005

OFFICE OF PETITIONS

Applicant: Li et al.
Appl. No.: 10/260,817
Filing Date: September 30, 2002
U.S. Patent No.: 6,804,808
Issue Date: October 12, 2004
Title: REDUNDANT VIA RULE CHECK IN A MULTI-WIDE OBJECT CLASS DESIGN LAYOUT
Attorney Docket No.: 004-7655
Pub. No.: US 2004/0063228 A1
Pub. Date: April 1, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on May 19, 2004.

The request is DISMISSED as moot.

The instant request identifies an error in the published patent application publication. Since the application has already issued as U.S. Patent No. 6,804,808 on October 12, 2004, the request is deemed moot.

Inquiries relating to this matter may be directed to the undersigned at (571) 272-7709.

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

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 8

A. Blair Hughes
McDonnell Boehnen Hulbert & Berghoff
32nd Floor
300 S. Wacker Drive
Chicago, IL 60606

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MAY 0 6 2003

OFFICE OF PETITIONS

In re Application of :
Layton et al. :
Application No. 10/260,833 :
Filed: September 30, 2002 : DECISION ON PETITION
Attorney Docket No. 97,268-C :

This is a decision on the Petition for Filing Date, filed March 12, 2003, requesting the above-identified application be accorded the filing date of September 30, 2002, instead of the present filing date of December 13, 2002.

As previously stated in the Notice of Omitted Items in a Nonprovisional Application (hereinafter "Notice") of October 28, 2002, the above-identified application had been accorded a filing date of September 30, 2002. The record supports applicants' assertion that the United States Patent and Trademark Office erroneously changed the application filing date to December 13, 2002, the date applicants' filed an Amendment canceling the reference to drawing Figures 5A, B and C in the Specification. The Office sincerely apologizes for the error.

Accordingly, the petition is granted.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to September 30, 2002, and the mailing of a corrected filing receipt.

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

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Derek L. Woods
Petitions Attorney
Office of Petitions

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WILLIAMS, MORGAN & AMERSON, P.C.
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

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APR 25 2005

OFFICE OF PETITIONS

In re Application of
Greenlaw
Application No. 10/260,840
Filed: September 30, 2002
Attorney Docket No. 2000.090700
For: THREE-DIMENSIONAL INTEGRATED SEMICONDUCTOR DEVICE

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 28, 2005 (certificate of mailing date January 25, 2005), to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the December 11, 2003 Notice of Allowance and Fee(s) Due. Accordingly, this application became abandoned on March 12, 2004. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Applicant has submitted a proper reply in the form of the issue fee, the publication fee and the PTOL-85(b), an acceptable statement of the unintentional nature of the delay in responding to the December 11, 2003 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/260,865	09/27/2002	Bryan L. Costales	4446-10-CIP	1253

7590 02/14/2005

MARCIA K. FLYNT
SL3D, INC.
P.O. BOX 3067
BOULDER, CO 80307-3067

EXAMINER	
CHANG, AUDREY Y	

ART UNIT	PAPER NUMBER
2872	

DATE MAILED: 02/14/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 090204

JAN 25 2005

SHERIDAN ROSS P.C.
1560 BROADWAY, SUITE 1200
DENVER, CO 80202-5141

In re Application of:
BRYAN L. COATALES
Serial No.: 10/260,865
Filed: September 27, 2002
Attorney Docket No.: **4446-10-CIP**

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 July 13, 2004.

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

The request meets all the above stated requirements. The request was signed by Douglas w. Swartz, on behalf of herself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

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

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

Inquiries related to this decision should be directed to Hien H. Phan at (571) 272-1606.

Hien H. Phan, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: MARCIA K. FLYNT
SL3D, INC.
P.O. BOX 3067
BOULDER, CO 80307-3067

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LERNER AND GREENBERG PA
P O BOX 2480
HOLLYWOOD, FL 33022-2480

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OCT 2 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Alfred Haimeri et al	:	
Application No. 10/260,872	:	DECISION GRANTING PETITION
Filed: September 30, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MAS-FIN-095	:	

This is a decision on the petition, filed October 21, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 2827 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the 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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WESTERN DIGITAL TECHNOLOGIES, INC.
20611 LAKE FOREST DR. – C205
LAKE FOREST, CA 92630

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JUN 27 2005

OFFICE OF PETITIONS

In re Application of :
Jinqiu Zhang, et al. :
Application No. 10/260,896 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. K35R1772 :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed January 13, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 14, 2005.

The Revocation of Power of Attorney and Change of Correspondence Address has been previously accepted and recorded.

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

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

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

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHICAGO, IL 60606

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APR 0 9 2003

OFFICE OF PETITIONS

In re Application of :
H. Dennis Tolley et al :
Application No. 10/260,898 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. 0241.66839 :

This is in response to the petition under 37 CFR 1.47(a), filed January 21, 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 (2) set forth above.

As to item (2), a declaration in compliance with 37 CFR 1.63 and 1.64 has not been presented. In this regard, the declaration fails to set forth the citizenship of nonsigning, joint inventor David A. LeFebre. Note MPEP 409.03(a); MPEP 602, and MPEP 605.01. Accordingly, a declaration in compliance with 37 CFR 1.63 and 1.64 is required.

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

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 S. Clark Place
Arlington, VA 22202

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

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

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
WWW USPTO GC

Paper No. 9

GREER BURNS & CRAIN
300 S. WACKER DR.
25TH FLOOR
CHICAGO, IL 60606

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MAY 0 9 2003

OFFICE OF PETITIONS

In re Application of :
H. Dennis Tolley et al :
Application No. 10/260,898 : DECISION GRANTING
Filed: September 30, 2002 :STATUS UNDER 37 CFR 1.47(a)
For: METHOD OF :
SIMULTANEOUSLY :
CONCENTRATING AND
SEPARATING ANALYTES

This is in response to the petition filed May 2, 2003, requesting reconsideration of a decision mailed April 9, 2003, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

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

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

This application is being forwarded to Technology Center 1700.

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 PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GO

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MAY 09 2003

OFFICE OF PETITIONS

DAVID A. LEFEBRE
4665 PUERTA DEL SOL
RANCHO DEL SOL
CAMINO, CA 95709

In re Application of
H. Dennis Tolley; Qinggang Wang; Milton L. Lee; David A. Lefebre
Application No. 10/260,898
Filed: September 30, 2002
For: METHOD OF SIMULTANEOUSLY CONCENTRATING AND SEPARATING ANALYTES

Dear Mr. LeFebre:

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

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

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (703) 306-5684. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

cc:

Greer, Burns & Crain
300 S. Wacker Dr.
25th Floor
Chicago, IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.13

VIERRA MAGEN MARCUS HARMON & DENIRO LLP
685 MARKET STREET, SUITE 540
SAN FRANCISCO, CA 94105

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APR 21 2004

OFFICE OF PETITIONS

In re Application of :
Brian I. Marcus et al :
Application No. 10/260,904 : DECISION ON PETITION
Filed: September 30, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. EDU-7 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 20, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 08/581,437, filed December 29, 1995, set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

---

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

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

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

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

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

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

This application is being forwarded to Technology Center Art Unit 3714 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed nonprovisional Application No. 08/581,437, filed December 29, 1995.

Karen Creasy

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, Illinois 60610

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NOV 28 2005

OFFICE OF PETITIONS

In re
Partsch et al.
Application No. 10/260,919
Filing Date: September 30, 2002
Attorney Docket No.10808/55

: RECONSIDERATION OF PATENT TERM ADJUSTMENT

This decision is in response to applicants' REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b) timely[1] filed on March 28, 2005 requesting that the Office adjust the PTA calculation at the time of the notice of allowance from a determination of zero (0) days to a determination of ZERO (0) days.[2]

The applicants request for PTA reconsideration is **GRANTED.** The Office will adjust the PTA determination at the time of the mailing of the notice of allowance as follows; (2 days of Office delay and 36 days of applicant delay).

Applicants assert that Office determination of zero (0) days is accurate. Applicants assert that at the time of the notice of allowance the Office delay was two (2) days but applicants delay was only thirty-six (36) days, not 43 days as the Office determined. Applicants assert that the office erred in assessing a forty (40) day penalty for a response to the notice to file missing part under 37 CFR 1.704(b). Applicants assert that the delay should have only been assessed at thirty-three (33) days because the response by applicant occurred one week prior to the

[1]Issue fee paid on August 10, 2005.

[2]Applicants are not contesting the zero days of determination but believe that the amount of applicant delay is seven days less that asserted by the Office.

date entered into the PALM.[3] Applicants submit that the response was received in the Office on March 10, 2003 (not March 17, 2003) and accordingly the delay should have been thirty-three days not forty days. Applicant supplied a post-card stamp receipt showing the date of receipt of fees as March 10, 2003.

Applicants arguments are persuasive. The record reflects that the fee payment was received on March 10, 2003 as suggested by applicant. Accordingly, the reduction under 37 CFR 1.704(b) should have been limited to thirty-three (33) days not forty (40) days.

After the mailing of this decision, the file will be forwarded to the Office of Patent Publications for a prompt issuance of the patent. Any delays in issuing the application more than four months from the payment of the issue fee and all other requirements being satisfied will be added in the issue notification letter that is provided to applicants approximately three weeks prior to issuance of the application.

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

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

Kery Fries

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

[3]The PALM records indicated that the response to the notice to file missing parts was received in the Office on March 17, 2003.

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

BRADLEY ARANT ROSE & WHITE LLP
200 CLINTON AVE. WEST
SUITE 900
HUNTSVILLE AL 35801

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JAN 23 2003

OFFICE OF PETITIONS

In re Application of :
Robinson, et al. :
Application No. 10/260,922 : DECISION GRANTING PETITION
Filed: September 30, 2002 :
Attorney Docket No. D2286-61358 :

This is a decision on the petition filed November 18, 2002, requesting that the above-identified application be accorded a filing date of September 30, 2002.

On September 30, 2002, applicants deposited the above-identified application. On October 31, 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. Additionally, the Notice indicated that a properly signed oath or declaration must be submitted.

In response, on November 18, 2002, applicants filed the present petition, the petition fee, an executed declaration and power of attorney, and a copy of applicants' postcard receipt acknowledging receipt of 8 drawing sheets on September 30, 2002. Additionally, applicants submitted a copy of 8 sheets of drawings (Figs. 1-7) with the present petition.

Upon review of the record, 8 sheets of drawings, deposited on September 30, 2002, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on September 30, 2002, included 8 drawing sheets, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including 8 sheets of drawings (Figs. 1-7), was complete on filing and will be granted a filing date of September 30, 2002.

Accordingly, the petition is granted.

The Notice of October 31, 2002, was sent in error and is hereby vacated. Accordingly, the $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 50-0954.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of September 30, 2002, using 8 sheets of drawings submitted

on November 18, 2002, and the mailing of a corrected filing receipt. The Office records should indicate that "8" 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

In re Application of :
Karsten Wieczorek et al :
Application No. 10/260,926 : DECISION GRANTING PETITION
Filed: September 30, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2000.093600 :

This is a decision on the petition, filed November 9, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 22, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2811 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 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).*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 19, 2007

TO SPE OF : ART UNIT 2851

10/960933

SUBJECT : Request for Certificate of Correction on Patent No.: 6771349 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.

Elisha Evans

Thank You For Your Assistance

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:

DIANE LEE
SUPERVISORY PATENT EXAMINER

SPE **Art Unit** 2857

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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MAR -2 2004

Paper No. 9

In re Application of
Hans-Jorg Goop
Application No. 10/260,938
Filed: September 30, 2002
Attorney Docket No. 10842.0084/CNUS01

: DECISION ON PETITION

This is a decision on the petition filed on December 2, 2003 by which petitioner requests withdrawal of the examiner's holding that this application stands abandoned for failure to file a reply to the Office letter dated March 31, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that this application is not abandoned because a timely reply to the Office letter in question was in fact filed. Petitioner has supported this allegation by submitting a copy of the reply, which included a request for a one month extension of time with an authorization to charge the extension of time fee, and a copy of a filing receipt for these papers that shows that they were received in the Office on July 16, 2003. Based upon this showing, it is clear that this application is not abandoned. However, Office financial records do not show that the necessary fee for the above mentioned extension of time was in fact received in the Office or credited to either the instant application of the parent application. It is also noted that the $180.00 fee for the Information Disclosure Statement (IDS) filed on December 2, 2003, appears to have correctly charged, although it also appears that an IDS was filed on July 16, 2003 and apparently entered in the parent application.

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 charge Deposit Account No. 01-2508 extension of time fee in the amount of $110.00, an amount that should have been charged on July 16, 2003. Thereafter, the application will be forwarded to the examiner for action on the reply filed on July 16, 2003.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Billy C. Allen III
Howrey Simon Arnold & White LLP
750 Bering Drive
Houston, TX 77057-2198

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ALEXANDRIA, VA 22313-1450
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Paper No. 3

George T. Marcou
KILPATRICK STOCKTON LLP
3737 Glenwood Avenue, Suite 4000
Raleigh, NC 27612

MAILED

NOV 0 3 2003

Technology Center 2100

In re Application of:
Phil Hinton
Application No. 10/260,945
Filed: September 30, 2002
For: METHOD AND SYSTEM OF COMPACTING SPARSE DIRECTORIES IN A FILE SYSTEM

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed October 17, 2003.

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

The request filed October 17, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,811,510
Patented: November 2, 2004

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Thomas J. Langenfeld, Sullivan, IL (US); Raymond Hauser, Sullivan, IL (US).

Charles A. Marmor, SPE
Art Unit 3655

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 16 2009

NEAL, GERBER, & EISENBERG
Suite 2200
2 North LaSalle Street
Chicago, IL 60602

In re Application of	:	
Thomas J. Langenfeld et al	:	DECISION
Patent No.: 6,811,510	:	GRANTING
Issue Date: November 2, 2004	:	PETITION
For: HYDRAULIC MOTOR APPARATUS AND VEHICLE	:	37 CFR 1.324

This is a decision on the petition filed February 24, 2005 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventors.

Charles A. Marmor

Charles A. Marmor, SPE
Art Unit 3681
Technology Center 3600
(703) 308-0830

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 6

CHARLES W. CALKINS
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101

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APR 0 9 2004

OFFICE OF PETITIONS

In re Application of
Tabor, Aaron
Application No. 10/260,993
Filed: September 30, 2002
Attorney Docket No. 12801/279040

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 23, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the restriction requirement mailed August 25, 2003, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 26, 2003.

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

The file is now being forwarded to Technology Center 1600 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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LEGAL DEPARTMENT
TERADYNE, INC.
321 HARRISON AVENUE
BOSTON MA 02118

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FEB 23 2006

OFFICE OF PETITIONS

In re Application of :
Luis A. Miller et al. : DECISION ON PETITION
Application No. 10/261,005 :
Filed: September 30, 2002 :
Attorney Docket No.: 1550-US :

This is a decision on the petition filed under 37 CFR 1.137(a)[1] on February 13, 2006, to revive the above-identified application, which is being treated under 37 CFR 1.137(b).[2]

The petition is **GRANTED**.

This application became abandoned on November 10, 2005, for failure to pay the issue

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

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

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

(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©)).

fee in response to the Notice of Allowance mailed August 9, 2005, which set a three (3) month period for reply. Accordingly, a Notice of Abandonment was mailed December 16, 2005.

While the petition was filed under the unavoidable standard, and while the form used for filing was that of an unavoidable petition, no explanation under the unavoidable standard was provided and further, the fees paid were those required under the unintentional standard.

The issue fee ($1400), petition fee($1500) and publication fee($300), in accordance with 37 CFR 1.18, have been applied to the finance records for the above-identified application.

All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 06-05

Paper No: __

LEGAL DEPARTMENT
TERADYNE, INC.
321 HARRISON AVENUE
BOSTON MA 02118

COPY MAILED

JUN 17 2005

OFFICE OF PETITIONS

In re Application of :
Culpepper, et al. :
Application No. 10/261,006 : DECISION ON PETITION
Filing Date: 30 September, 2002 :
Attorney Docket No. 1731-US :

This is a decision on the petition filed on 30 September, 2004, alleging unintentional delay under 37 C.F.R. §1.137(b).

The Office regrets the delay in addressing this matter.

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

BACKGROUND

The record indicates:

- Petitioner failed to reply timely and properly to the Notice to File Corrected Application Papers (as to the drawings) mailed on 30 October, 2002, with reply due on or before Monday, 30 December, 2002;
- the application went abandoned after midnight 30 December, 2002;
- the Office mailed the Notice of Abandonment on 7 June, 2004;

- the instant petition (with fee) was filed on 30 September, 2004, and included therewith the reply in the form of the drawings.

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

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

---

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

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

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

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

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

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

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

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

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) hereby is **granted**, and the petition fee ($1,330.00) is charged to Deposit Account 20-0515 (Docket No. 1731-US).

The instant application is released to OIPE for further processing as necessary before being forwarded for examination.

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

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

OIPE JC16
SEP 30 2004
PATENT & TRADEMARK OFFICE

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OCT 04 2004
OFFICE OF PETITIONS

Attorney's Docket No.: 1731-US

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#4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Martin L. Culpepper et al.
Serial No. : 10/261,006
Filed : September 30, 2002
Title : RIM SLOT FILLER MODULE AND METHOD OF MANUFACTURING THE SAME

Art Unit : Not Assigned
Examiner : Not Assigned

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

PETITION TO REVIVE PATENT APPLICATION

Applicants hereby request that the above-referenced application be revived. The application became unintentionally abandoned when Applicants did not respond to the Notice to File Corrected Application Papers, mailed October 30, 2002. Due to turnover in our legal department and human error, the previous handling attorney was not aware of the Notice to File Corrected Application Papers and sent a Status Query to the USPTO on March 25, 2004. A Notice of Abandonment was mailed subsequently on June 7, 2004. The entire delay in filing this reply from the time of the Notice to File Corrected Applications to this petition was unintentional.

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

28 September 2004
Date of Deposit

Signature

Anthony T. Moosey
Typed or Printed Name of Person Signing Certificate

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Kathy Manke
Avago Technologies Limited
4380 Ziegler Road
Fort Collins CO 80525

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NOV 19 2007

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Gil et al.	:	
Application No.: 10/261012	:	
Filing or 371(c) Date: 09/30/2002	:	
Attorney Docket Number: 10011363-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 15, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to submit corrected formal drawings on or before September 14, 2007, as required by the Notice of Allowability, mailed June 14, 2007. Accordingly, the date of abandonment of this application is September 15, 2007.

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

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS MO 63102

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AUG 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Kampa, Joel J.	:	
Application No. 10/261,037	:	ON PETITION
Filed: September 30, 2002	:	
Attorney Docket No. BTEC 9682	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 13, 2005, to revive the above-identified application.

The petition is **GRANTED.**

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

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. 11/146,704.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 8

BROWNING BUSHMAN, P.C.
SUITE 1800
5718 WESTHEIMER
HOUSTON, TX 77002

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FEB 12 2004

OFFICE OF PETITIONS

In re Application of
DeBerry, Blake T.
Application No. 10/261,053
Filed: September 30, 2002
Attorney Docket No. DRIA-114-1

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 3, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed October 30, 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 31, 2002. A Notice of Abandonment was mailed on January 26, 2004.

The late oath or declaration fee is still required. Accordingly, petitioner's deposit account will be charged $130.00 as authorized.

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

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

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

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

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

Jung Chang Lin
1 Schindler Court
Silver Spring MD 20903

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MAY 15 2003

OFFICE OF PETITIONS

In re Application of :
Wang et al. :
Application No. 10/261,062 : DECISION ON PETITION
Filed: November 22, 2002 :
Attorney Docket No. :
Harvateck-9038D :

This is a decision on the petition filed November 22, 2002, under 37 CFR 1.182, to permit entry of Figures 13 and 14 described in the specification.

The application was deposited on October 1, 2002. However, on October 30, 2002, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application (hereinafter "Notice"), informing applicants that Figures 13 and 14 described in the specification appeared to have been omitted from the application.

In response, on November 22, 2002, Petitioner submitted the instant petition, requesting entry of Figures 13 and 14 described in the specification as part of the original disclosure, and that the application be accorded as the filing date, the date that Figures 13 and 14 described in the specification were submitted.

The mailing of the Notice permits the applicant to either: (1) promptly establish prior receipt in the PTO of the page(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted page(s) in a nonprovisional application and accept the date of such submission as the application filing date.

Petitioner has selected option (2). Accordingly, the filing date of the application is the date that pages 13 and 14 of the specification were submitted, November 22, 2002.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 22, 2002, using Figures 13 and 14 described in the specification filed on that date.

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

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. None

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

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MAR 13 2006

OFFICE OF PETITIONS

In re Application of :
Billy Wang et al. :
Application No. 10/261,062 :
Filed: November 22, 2002 : DECISION ON PETITION
Attorney Docket No. HARVATECK-9038D : UNDER 37 C.F.R. §1.181(A)
Title: WING-SHAPED SURFACE MOUNT PACKAGE FOR LIGHT EMITTING DIODES :

This is a decision on the petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on January 13, 2006.

BACKGROUND

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowability, mailed July 13, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue or publication fees[1]. Accordingly, the above-identified application became abandoned on October 14, 2004. A notice of abandonment was mailed on November 22, 2004.

With the present petition, Petitioner has alleged that the notice of allowability and issue fee due was not received, as it was mailed to the incorrect address.

The electronic file has been reviewed, and it is clear that a change of address was received on April 28, 2004, but this

1 See MPEP §710.02(e).

change of address was not effectuated. As such, the above-mentioned notice was mailed to the incorrect address.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. § 1.181 (f):

The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

MPEP 711.03(c) states, in part:

> PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION
>
> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 CFR 1.137(a) based upon unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

ANALYSIS

The showing in the present petition is not sufficient to withdraw the holding of abandonment.

37 C.F.R. §1.181(f) indicates that any petition submitted under this portion of the C.F.R. that is not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely. The present petition was submitted over two months after the mailing of the notice of abandonment.

As such, the petition under 37 C.F.R. §1.181 is **DISMISSED** as untimely.

It is noted in passing that even if this petition were to be accepted as timely filed, it could not be granted.

Although Petitioner has established that the Office communication was not sent to the correct address, Petitioner has not established that said communication was not forwarded to the current address and subsequently received. Petitioner has not met the requirements outlined above, in that it does not appear that he has:

- asserted that he has searched the file jacket;
- asserted that he has searched the docket records;
- included a copy of the file jacket, and;
- included a copy of the docket report.

Therefore, Petitioner has not established non-receipt of the communication, and the petition must be **DISMISED**.

CONCLUSION

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. §1.181." 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[2], hand-delivery[3], or facsimile[4].

It is noted in passing that the Change of Correspondence Address has been entered and made of record. Unfortunately, the Appointment of Power of Attorney cannot been effectuated, as the attorneys have been listed by their registration numbers, and the Office now requires the presentation of a customer number when changes of the power of attorney are requested. As such, Petitioner may wish to consider submitting a power of attorney form which contains the customer number. The appropriate form may be found at http://www.uspto.gov/web/forms/sb0081.pdf.

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

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

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No. None

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

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JUN 16 2006
OFFICE OF PETITIONS

In re Application of :
Billy Wang et al. :
Application No. 10/261,062 :
Filed: November 22, 2002 : DECISION ON RENEWED PETITION
Attorney Docket No. HARVATECK-9038D : UNDER 37 C.F.R. §1.181(A)
Title: WING-SHAPED SURFACE MOUNT PACKAGE FOR LIGHT EMITTING DIODES :

This is a decision on the petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on May 15, 2006.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowability, mailed July 13, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue or publication fees[1]. Accordingly, the above-identified application became abandoned on October 14, 2004. A notice of abandonment was mailed on November 22, 2004.

The original petition was submitted on January 13, 2006, and was dismissed via the mailing of a decision on March 13, 2006. With this renewed petition, Petitioner has submitted additional evidence, which has been deemed to be persuasive.

The renewed petition is **GRANTED**.

After the mailing of this decision, the Office of Patent Publications will be made aware of the same, so that the present application can be processed into a patent.

1 See MPEP §710.02(e).

It is noted in passing that the submission entitled "Exhibit E" has not been considered, since the submission contains color entries. Petitioner is aware that the present application is an electronic file. Petitioner will note that color is not reproduced in electronic files, and as such, the submission was not made a part of the electronic file but rather filed as an artifact.

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

Paul Shanoski

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MAR 31 2005

In re Patent No. GRANT ET AL
Appl. No.: 10/261,063
Filed: 9/30/02
For: ELECTRIC APPARATUS HAVING INSULATED STATOR

DECISION DISMISSING PETITION
37 CFR 1.181

This is a decision on the petition under 37 CFR 1.181, filed 2/7/05, to withdraw the finality of the previous office action mailed 12/03/04.

The petition is DISMISSED.

Applicants' position is that the examiner did not provide a translated copy of the Japanese ABE (08-070544) reference with the first office action, and only did so upon mailing the second, final office action referenced above. Applicant believes this constitutes a new grounds of rejection as set forth in MPEP 706.07(a). However, a review of the record indicates that no change was made in the rejection as set forth in the final office action from that given in the original, non-final rejection mailed 6/21/04. It is apparent that the examiner relied on both the figures and the translated abstract (both available to the applicant after the non-final rejection) to reach his conclusion in both rejections. Thus, this does not fall under the category of a new grounds of rejection as contemplated by MPEP 706.07(a).

This application is being forwarded to the examiner to respond to applicants' arguments concerning patentability, filed 2/7/05, in accordance with 37 CFR 1.116.

Richard Seidel
Director
Patent Examining Group 2800

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. None

Nokia, Inc.
Mail Stop: 1-4-755
6000 Connection Drive
Irving TX 75039

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JUN 29 2005

OFFICE OF PETITIONS

In re Application of
Thomas Fuhrmann et al.
Application No. 10/261,065
Filed: September 30, 2002
Attorney Docket Number: NC12053-C2
Title: ELECTRONIC DEVICE WITH HOUSING SUPPLEMENT

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

This is a decision on the petition under 37 CFR §1.137(a)[1], filed June 6, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed September 21, 2004, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on December 22, 2004. A Notice of Abandonment was mailed on May 4, 2005.

With the instant petition, Petitioner has included the petition fee, an amendment, and a statement of facts. Petitioner asserts that the Notice was not received.

The instant petition lacks item (3) above.

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.137(a).

---

1 A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[2]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[3]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[4]

"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[5]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[6]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[7]

Nonawareness of a PTO rule will not constitute unavoidable delay[8]

---

2 Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency's interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

3 Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

4 Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. 706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

5 Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

6 Id.

7 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

8 See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of

The burden of showing the cause of the delay is on the person seeking to revive the application[9].

A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP is not rendered "unavoidable" due to either the applicant's reliance upon oral advice from USPTO employees or the USPTO's failure to advise the applicant to take corrective action[10].

The portion of the MPEP relevant to the abandonment of this application

MPEP 711.03(c) states, in part:

PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION

In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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

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

Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 CFR 1.137(a) based upon unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

---

an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

9 Id.

10 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances that led to the abandonment of the application meet the aforementioned unavoidable standard and, therefore; petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner contends that this mailing was never received.

The showing in the instant petition is not sufficient to withdraw the holding of abandonment because although Petitioner has included a statement that a thorough search of the file jacket and docket records were conducted, Petitioner did not include a copy of the docket record where the non-received Office communication would have been entered and docketed. 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.

As such, Petitioner has not established non-receipt of the communication. Therefore, this petition is **DISMISSED**.

Any renewed petition must be submitted within **TWO (2) MONTHS** from the mail date of this decision, and should include a copy of the docket report. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)."

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

Any renewed petition may be submitted by mail[11], hand-delivery[12], or facsimile[13].

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

11 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
12 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
13 (703) 872-9306 - please note this is a central facsimile number.

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6000 Connection Drive
Irving TX 75039

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AUG 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Thomas FUHRMANN et al. :
Application No. 10/261,065 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. NC12053-C2 :

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

The petition is **GRANTED**.

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

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and terminal disclaimer; (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 September 21, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 2685 for appropriate action on the concurrently filed amendment.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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JJGJR.: 07-06

Paper No: __

MEDTRONIC, INC.
710 MEDTRONIC PARK
MINNEAPOLIS MN 55432-9924

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JUL 19 2006

OFFICE OF PETITIONS

In re Application of :
Norton :
Application No. 10/261,066 : DECISION
Filing Date: 30 September, 2002 :
Attorney Docket No.: P-9171.00 :

This is a decision on the petition filed on 12 June, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 31 October, 2005, with reply due absent extension of time on or before Monday, 1 May, 2006;

- on 1 May, 2006, Petitioner submitted a request for continued examination (RCE) under 37 C.F.R. §1.114 with fee but without submission–and the RCE was improper in that it was not filed in an application in which prosecution was closed (i.e., in response to an final Office action)–moreover, Petitioner failed to mark the RCE paper submitted to authorize the request and fee for extension of time;

- the instant application went abandoned after midnight 30 April, 2006;
- on 11 May, 2006, the Office mailed to Petitioner Noticed of the improper RCE;
- on 16 May, 2006, Petitioner untimely filed an amendment as the reply;
- the Office mailed a Notice of Abandonment on 23 May, 2006;
- on 12 June, 2006, Petitioner filed the instant petition with fee, pointed to the amendment filed on 16 May, 2006, as the required reply, and made the statement of unintentional delay.

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

---

[1] 35 U.S.C. §133 provides:

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

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

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

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

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

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt,[6] and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

As to the Allegation
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.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

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

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

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

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

---

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

[6] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[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.

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MAR 31 2004

VP
PAPER NO. ___

In re Application of
Lawrence E. Shea
Serial Number: 10/261,070
Filed: September 29, 2002
For: NON-FORMALDEHYDE REINFORCED
THERMOSET PLASTIC COMPOSITES

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

This is in response to the petition filed November 3, 2003, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) **(no fee required)**.

The request for Special Status considered under Section 708.02 IV of the MPEP is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

William F. Hamrock, PA
50 Winter Harbor Road
Kennebunkport ME 04046

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Paper No. 5

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AUSTIN TX 78701

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OFFICE OF PETITIONS

In re Application of	:	
Trono et al.	:	
Application No. 10/261,078	:	DECISION GRANTING PETITION
Filed: 30 September, 2002	:	
Att'y Docket No. CLFR:014US	:	

This is a decision on the petition filed on 2 December, 2002, which is treated as a petition requesting that the above-identified application be accorded a filing date of 30 September, 2002, with 14 sheets of drawings as a part of the original disclosure.

On 30 September, 2002, the application was filed.

On 13 November, 2002, Initial Patent Examination Division mailed a "Notice of Incomplete Application" stating that the application had not been accorded a filing date because the application was deposited without drawings and that the filing date of the application would be the date of receipt of the drawings.

In response, on 2 December, 2002 (certificate of mailing date 25 November, 2002) *inter alia*, the present petition, a $130.00 petition fee, and 14 sheets of drawings were filed. Petitioners argue that 14 sheets of drawings were filed with the other application papers on 30 September, 2002, and that the drawings were misplaced in the U.S. Patent and Trademark Office (Office). In support of the petition, a copy of petitioners' postcard receipt which shows an Office stamp of 30 September, 2002, and the above-identified application number, and acknowledges receipt of, *inter alia*, 14 sheets of drawings was supplied. Petitioner requests that the application, including 14 sheets of drawings, be accorded a filing date of 30 September, 2002.

Upon review of the record, no sheets of drawings deposited on 30 September, 2002, have been located among the application papers. However, the evidence is convincing that the application papers deposited on 30 September, 2002, included 14 sheets of drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including 14 sheets of drawings, was complete on filing and entitled to a filing date of 30 September, 2002.

In view of the above, the petition is granted. The 14 sheets of drawings submitted with the petition will be used for processing and examination purposes. The petition fee is unnecessary and will be refunded to counsel's deposit account, No. 50-1212.

The "Notice" mailed on 13 November, 2002, is vacated to the extent that it stated that the application was deposited without drawings.

The application is being returned to Initial Patent Examination Division for processing with a filing date of 30 September, 2002, using the application papers filed on that date, and the 14 sheets of drawings supplied on 2 December, 2002, and for an indication on the bib-data sheet that 14 sheets of drawings were present on filing.

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

SPE: I. Yucel

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/16/07

TO SPE OF : ART UNIT 1636

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/261,078 Patent No.: 7198950

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: _____

_____

_____

_____

_____

Joe Woitach — SPE

1636 — Art Unit

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Paper No. 9

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

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OFFICE OF PETITIONS

In re Application of	:DECISION ACCORDING STATUS
Gerstel, Raza, Ramaswami,	:UNDER 37 CFR 1.47(a)
Narayanan, Ward, Keys, Park, Sahay,	:AND
Aboul-Magd, and Simard	:DECISION ON PETITION UNDER
Application No. 10/261,099	:37 CFR 1.182
Filed: 30 September, 2002	:
Atty Dkt. 2204/C32 (15562XRUS02U)	:

This is in response to the renewed petition under 37 CFR 1.47(a), filed on 25 August, 2003, and the petition under 37 CFR 1.182, filed by facsimile on 4 September, 2003, to correct the seventh-named inventor's first name.

The petition is **GRANTED**.

PETITION UNDER 37 CFR 1.47(a)

Petitioners have shown that the non-signing inventor, Robert Ward, 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 Ward had failed, however, to return an executed declaration naming him as a joint inventor along with the above-named inventors. It is noted that a declaration has now been submitted signed by previously non-signing inventor Park.

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.

PETITION UNDER 37 CFR 1.182

The petition to correct the seventh inventor's first name from "Dave" to --**David**-- is granted.

Counsel's deposit account, No. 19-4972, has been charged the petition fee of $130.00.

The seventh-named inventor's first name will be corrected from "Dave" to "David".

The corrected citizenship and other inventor data has been entered in Office records. A corrected filing receipt is attached.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

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Robert Ward
803 Selkirk Place
Sunnyvale, CA 94087

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OFFICE OF PETITIONS

In re Application of
Gerstel et al.
Application No. 10/261,099
Filed: 30 September, 2002
For: LINK DISCOVERY, VERIFICATION, AND FAILURE ISOLATION IN AN OPTICAL COMMUNIATION SYSTEM

Dear Mr. Ward:

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

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

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BROMBERG & SUNSTEIN

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Paper No. 6

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

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OFFICE OF PETITIONS

In re Application of	:
Gerstel, Raza, Ramaswami,	: DECISION REFUSING STATUS
Narayanan, Ward, Keys, Park, Sahay,	: UNDER 37 CFR 1.47(a)
Aboul-Magd, and Simard	:
Application No. 10/261,099	:
Filed: 30 September, 2002	:
Atty Dkt. 2204/C32 (15562XRUS02U)	:

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

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 30 September, 2002, without an executed oath or declaration. Accordingly, on 30 October, 2002, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring the statutory basic filing fee, an executed oath or declaration, and a surcharge for their late filing.

In response, on 3 February, 2003 (certificate of mailing date 30 January, 2003), petitioners filed the present petition and a one (1) month extension of time in accordance with 37 CFR 1.136(a), along with the statutory basic filing fee, petition fee and

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surcharge and a declaration naming Ornan A. Gerstel, Humair Raza, Rajiv Ramaswami, Babu O. Narayanan, Robert Ward, Robert Keys, Dave Park, Vasant Sahay, Osama Aboul-Magd, and Federick Simard as joint inventors.

Petitioners state that joint inventors Ward and Park were sent a copy of the declaration, but have not returned a signed oath or declaration.

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

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

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

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1), (2), and (5).

In regards to item (1), petitioners have not provided proof that non-signing inventors Park and Ward were ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] The showing of record is that although the declaration was sent to the non-signing inventors, the application papers were never sent to them. Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a

[1] MPEP 409.03(d).

person, then that person must provide details of the refusal in an affidavit or declaration of fact.

If the envelope sent to the non-signing inventor at the last known address is returned as undeliverable by the post office, petitioners should provide a copy of the envelope showing that the application was returned as undeliverable with any renewed petition. If the inventor refuses in writing to sign, a copy of that written refusal should be provided with any renewed petition. If the inventor refuses orally, petitioners should submit details of the refusal in an affidavit or declaration of facts by a person having first-hand knowledge of the refusal.

If repeated attempts to contact the non-signing inventor are unsuccessful, petitioners will have shown that despite diligent efforts, the inventor could not be reached.

With regards to item (2), the declaration submitted with the present petition is defective because it does not include the citizenship for the non-signing inventors. A statement of the inventor's citizenship is a statutory requirement and cannot be waived.[2] Additionally, it is noted that although joint inventor Osama Aboul-Magd's name was improperly captioned on the typewritten declaration, joint inventor Aboul-Magd hand-corrected his typewritten name on the declaration he signed. His name has now been corrected in Office records, but a new declaration properly captioning joint inventor Osama Aboul-Magd's name, signed by all of the signing inventors on behalf of themselves and the non-signing inventors in compliance with 37 CFR 1.63 and 1.64 must be supplied with any renewed petition. Additionally, the declaration by joint inventor Sahay is defective in that the signature blocks for the other inventors have been lined out. As such, it appears that joint inventor Sahay has signed a declaration indicating, improperly, that he is the sole inventor. A new declaration correcting all of the deficiencies noted above, and signed by all of the signing inventors on behalf of themselves and the non-signing inventors in compliance with 37 CFR 1.63 and 1.64 must be submitted.

With regard to item (5) it is noted that the last known address listed for joint inventor Park is a Post Office Box. Ordinarily, the last known address will be the last known residence of the non-signing inventor. Petitioners should attempt to verify joint inventor Park's last known residence, and sent the application as

---

[2] 35 U.S.C. § 115, MPEP 605.01.

filed to that address. If a different last known address is found for joint inventor Park, petitioner's should provide that address with any renewed petition.

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

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

OR (after 1 May, 2003)[3]

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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DECLARATION FOR UTILITY OR DESIGN PATENT APPLICATION (37 CFR 1.63)

☐ Declaration Submitted with Initial Filing OR ☒ Declaration Submitted after Initial Filing (surcharge (37 CFR 1.16 (e)) required)

Attorney Docket Number	2204/C32
First Named Inventor	GERSTEL, Ornan A.
COMPLETE IF KNOWN	
Application Number	10 / 261,099
Filing Date	September 30, 2002
Art Unit	2851
Examiner Name	Not Assigned

As the below named inventor, I hereby declare that:

My residence, mailing address, and citizenship are as stated below next to my name.

I believe I am the original and first inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled:

Link Discovery, Verification, and Failure Isolation in an Optical Communication System

(Title of the Invention)

the specification of which

☐ is attached hereto

OR

☒ was filed on (MM/DD/YYYY) September 30, 2002 as United States Application Number or PCT International Application Number 10/261,099 and was amended on (MM/DD/YYYY) _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached? YES	Certified Copy Attached? NO
60/326,034	US	10/01/2001	☐	☐	☒
60/399,604	US	07/30/2002	☐	☐	☒
			☐	☐	☐
			☐	☐	☐

☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto

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DECLARATION — Utility or Design Patent Application

Direct all correspondence to: [X] Customer Number or Bar Code Label 002101 OR [ ] Correspondence address below

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Address

City | State | ZIP

Country | Telephone | Fax

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

NAME OF SOLE OR FIRST INVENTOR : [ ] A petition has been filed for this unsigned inventor

Given Name (first and middle [if any]) Ornan A. | Family Name or Surname GERSTEL

Inventor's Signature | Date

Residence: City Los Altos | State California | Country United States | Citizenship Israel

Mailing Address 1560 Neston Way

City Los Altos | State California | ZIP 94024 | Country United States

NAME OF SECOND INVENTOR: [ ] A petition has been filed for this unsigned inventor

Given Name (first and middle [if any]) Humair | Family Name or Surname RAZA

Inventor's Signature | Date

Residence: City Sunnyvale | State California | Country United States | Citizenship Pakistan

701 Sheraton Drive

Mailing Address

City Sunnyvale | State California | ZIP 94087 | Country United States

[X] Additional Inventors are being named on the 3 supplemental Additional Inventor(s) sheet(s) PTO/SB/02A attached hereto.

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Application Number: 10/261,099
Filing Date: September 30, 2002
First Named Inventor: Ornan A. GERSTEL
Group Art Unit: 2851
Examiner Name: Not Assigned
Attorney Docket Number: 2204/C32

REGISTERED PRACTITIONER INFORMATION--Supplemental Sheet

Name	Registration Number	Name	Registration Number
Bruce D. Sunstein	27,234		
Robert M. Asher	30,445		
Timothy M. Murphy	33,198		
Steven G. Saunders	36,265		
Karen A. Buchanan	37,790		
Samuel J. Petuchowski	37,910		
Jeffrey T. Klayman	39,250		
John J. Stickevers	39,387		
Elizabeth P. Morano	42,904		
Jay Sandvos	43,900		
Alexander J. Smolenski, Jr.	47,953		
John L. Conway	48,241		
Barbara J. Carter	52,703		

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ADDITIONAL INVENTOR(S)
Supplemental She t
Page 1 of 3

Name of Additional Joint Inventor, if any: ☐ A petition has been filed for this unsigned inventor

Given Name (first and middle [if any])	Family Name or Surname
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Inventor's Signature _____ Date _____

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City Sunnyvale State California ZIP 94087 Country United States

Name of Additional Joint Inventor, if any: ☐ A petition has been filed for this unsigned inventor

Given Name (first and middle [if any])	Family Name or Surname
Babu O.	NARAYANAN

Inventor's Signature _____ Date _____

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Mailing Address _____

City San Jose State California ZIP 95134 Country United States

Name of Additional Joint Inventor, if any: ☐ A petition has been filed for this unsigned inventor

Given Name (first and middle [if any])	Family Name or Surname
Robert	WARD

Inventor's Signature _____ Date _____

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Mailing Address _____

City Sunnyvale State California ZIP 94087 Country United States

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Page 2 of 3

Name of Additional Joint Inventor, if any: ☐ A petition has been filed for this unsigned inventor

Given Name (first and middle [if any])	Family Name or Surname
Robert	KEYS

Inventor's Signature _____ Date _____

Residence: City Stittsville, Ontario | State | Country Canada | Citizenship United Kingdom

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Mailing Address

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Name of Additional Joint Inventor, if any: ☐ A petition has been filed for this unsigned inventor

Given Name (first and middle [if any])	Family Name or Surname
David	PARK

Inventor's Signature _____ Date _____

Residence: City Kanata, Ontario | State | Country Canada | Citizenship Canada

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Name of Additional Joint Inventor, if any: ☐ A petition has been filed for this unsigned inventor

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Inventor's Signature _____ Date _____

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ADDITIONAL INVENTOR(S)
Supplemental Sheet
Page 3 of 3

Name of Additional Joint Inventor, if any: ☐ A petition has been filed for this unsigned inventor

Given Name (first and middle [if any])	Family Name or Surname
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Inventor's Signature _____ Date _____

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Inventor's Signature _____ Date _____

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Name of Additional Joint Inventor, if any: ☐ A petition has been filed for this unsigned inventor

Given Name (first and middle [if any])	Family Name or Surname

Inventor's Signature _____ Date _____

Residence: City | State | Country | Citizenship

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION FOR UNITED STATES PATENT

FOR

LINK DISCOVERY, VERIFICATION, AND FAILURE ISOLATION IN AN OPTICAL COMMUNICATION SYSTEM

Inventors:

Ornan A. Gerstel (Israel)
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Attorney Docket No.: 2204/C32

Client Reference No.: 15562XRUS02U

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LINK DISCOVERY, VERIFICATION, AND FAILURE ISOLATION IN AN OPTICAL COMMUNICATION SYSTEM

PRIORITY

The present application claims priority from the following commonly-owned provisional patent applications, which are hereby incorporated herein by reference in their entireties:

United States Provisional Patent Application No. 60/326,034 filed October 1, 2001; and

United States Provisional Patent Application No. 60/399,604 filed July 30, 2002.

FIELD OF THE INVENTION

The present invention relates generally to optical communications, and more particularly to link discovery, verification, and failure isolation in an optical communication system.

SUMMARY OF THE INVENTION

In one embodiment of the invention there is provided a method for determining optical communication links between two adjacent network elements in an optical communication system. Each network element includes a number of transmit interfaces and a number of receive interfaces. The method involves causing a first one of the network elements to generate an optical signal over one of its transmit interfaces; causing the optical signal to be received at either a receive interface of a second one of the network elements or a receive interface of said first one of the network elements; and detecting an optical communication link between the transmit interface of the first network element and the receive interface of the second network element and a corresponding optical communication link between the transmit interface of the second network element and the receive interface of the first network element based upon at least

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the received optical signal. Among others, the optical signal can include a sustained light on condition, a sustained light off condition, a plurality of successive light on and light off conditions that vary according to a predetermined pattern, an optical signal that is modulated according to a predetermined data sequence, an optical signal that is modulated according to a pilot tone, an optical signal at an unused wavelength, amplified spontaneous emission noise, an alarm signal, and/or an optical signal that produces an invalid received signal at the receive interface. The second network element may instruct the first network element to generate the optical signal using a predetermined protocol. In order for the first network element to generate the optical signal, a test transmitter may be allocated and crossconnected to the transmit interface of the first network element. In certain embodiments, in order for the optical signal to be received at the receive interface of the first network element, the optical signal may be at a receive interface of the second network element and looped back from the receive interface of the second network element to a transmit interface of the second network element. In certain embodiments, in order for the optical signal to be received at the receive interface of the first network element, a test receiver may be allocated and to the receive interface of the first network element. The optical signal may include an identity pattern that uniquely identifies the transmit port of the first network element, in which case the optical communication link may be detected by recovering the identity pattern from the received optical signal and detecting the optical communication link based upon the recovered identity pattern, for example, using a table that maps each of a number of identity patterns to a corresponding transmit interface of the first network element and determining from the table that the recovered identity pattern maps to the transmit interface of the first network element. Such a table may also map each identity pattern and corresponding transmit interface of the first network element to a corresponding receive interface of the first network element, in which case the optical communication link between the transmit interface of the second network element and the receive interface of the first network element can be inferred from the mapping in the table.

In another embodiment of the invention there is provided a method for failure isolation in an optical communication system. The method involves establishing a

lightpath from a first end-node to a second end-node through a number of photonic cross-connect devices and associated optical devices; generating defect indications by a number of devices in response to a failure in the optical communication system; receiving the defect indications by at least one of the photonic cross-connect devices; and isolating the failure based upon the defect indications received by the photonic cross-connect devices. The method may also involve updating a link state database to indicate the status of each of a number of links associated with the lightpath. Generating defect indications by a number of devices in response to a failure in the optical communication system may involve turning off a laser, producing an invalid received signal condition, producing a loss of light condition, producing a loss of signal condition, producing a loss of frame condition, producing a loss of transitions condition, and/or producing an alarm indication signal. The method may also involve passing a defect indication from a photonic cross-connect device to an end-node through a device adjacent to the end-node or through an out-of-band signaling mechanism. Isolating the failure based upon the defect indications received by the photonic cross-connect devices may involve identifying the first photonic cross-connect device along the lightpath to receive a defect indication; determining a port of said first photonic cross-connect device on which the defect indication was detected; and isolating the failure based upon said port. Isolating the failure based upon the defect indications received by the photonic cross-connect devices may additionally or alternately involve carrying out a link verification process on all links associated with the failed lightpath to determine a status for each link and isolating the failure based upon the status for each link as determined by the link verification process. The optical communication system may include a wrapper-based wavelength division multiplexed network supporting fault type fault location with a wrapper overhead, in which case generating defect indications by a number of devices in response to a failure in the optical communication system may involve generating the defect indications based upon fault type fault location information in the wrapper overhead.

In another embodiment of the invention there is provided an optical communication system having a plurality of interconnected network elements, each network element comprising a number of transmit interfaces and a number of receive

interfaces; means for automatically discovering optical communication links between adjacent network elements; and means for verifying the optical communication links. The means for automatically discovering optical communication links between adjacent network elements may include means for causing a first one of the network elements to generate an optical signal over one of its transmit interfaces; means for causing the optical signal to be received at one either a receive interface of a second one of the network elements or a receive interface of said first one of the network elements; and means for detecting an optical communication link between the transmit interface of the first network element and the receive interface of the second network element and a corresponding optical communication link between the transmit interface of the second network element and the receive interface of the first network element based upon at least the received optical signal. The optical communication system may also include means for isolating a failure in the optical communication system, such as means for generating defect indications by a number of network elements in response to the failure; means for receiving the defect indications by at least one photonic cross-connect device among the plurality of interconnected network elements; and means for isolating the failure based upon the defect indications received by the at least one photonic cross-connect device.

BRIEF DESCRIPTION OF THE DRAWINGS

In the accompanying drawings:

FIG. 1 shows an exemplary opaque application of a PXC in accordance with an embodiment of the present invention;

FIG. 2 shows variations of PXC-PXC links including a type 1 variation in which the TNE ports have no multiplexing capability, a type 2 variation in which the TNE ports have multiplexing capability at both ends, and a type 3 variation in which the TNE ports have multiplexing capability at one end;

FIG. 3 shows variations of PXC-Client links including a type 1 variation in which there is no OEO between the client and the PXC, a type 2(a) variation in which there is an OEO between the client and the PXC, and type 2(b) variation in which there is a 4:1 multiplexer (mux) between the client and the PXC, and a type 3 variation in which there is a remote client;

FIG. 4 shows variations of PXC-EXC links including a type 1(a) variation in which the PXC and EXC are collocated and the OEO and EXC interfaces are non-integrated, a type 1(b) variation in which the PXC and EXC are collocated and the OEO and EXC interfaces are integrated, a type 2(a) variation in which the PXC and EXC are non-collocated and the OEO and EXC interfaces are non-integrated, and the type 2(b) variation in which the PXC and EXC are non-collocated and the OEO and EXC interfaces are integrated;

FIG. 5 shows PXC-WDM adjacencies and PXC-PXC adjacencies;

FIG. 6 shows an exemplary all-optical application in which there are two types of PXC-WDM links, specifically All-optical links where the WDM equipment attached to the PXC is not an OEO device and Terminal links where the WDM equipment attached to the PXC is a WDM OEO transponder as in the opaque application;

FIG. 7 shows test equipment attached to dedicated test access ports of the PXC and considered internal to the PXC node, in accordance with an embodiment of the present invention;

FIG. 8 shows a VOA with attached pilot tone receiver situated between the PXC and the multiplexer/demultiplexer in accordance with an embodiment of the present invention;

FIG. 9 shows a variation of FIG. 8 in which a broadband source is switched in behind the demultiplexer, in accordance with an embodiment of the present invention;

FIG. 10 shows a loopback configuration for verifying a link in accordance with an embodiment of the present invention;

FIG. 11 shows an exemplary optical communication system identifying various possible failure locations;

FIG. 12 shows an exemplary optical communication system demonstrating a LOL everywhere behavior;

FIG. 13 shows an exemplary optical communication system demonstrating a LOL at end-node behavior;

FIG. 14 shows an exemplary optical communication system demonstrating a LOL at failure behavior;

FIG. 15 shows an exemplary optical communication system demonstrating a LOL at failure and end-node behavior;

FIG. 16 shows an exemplary optical communication system depicting differentiated AIS behavior;

FIG. 17 shows an exemplary AIS tap;

FIG. 18 shows an exemplary OEO at an add/drop interface;

FIG. 19 shows an exemplary process of 1+1 network protection switching and its interaction with the internal equipment protection including a normal mode, an equipment protection mode, and a network protection mode;

FIG. 20 shows an exemplary configuration with an OEO at the drop port;

FIG. 21 shows an exemplary configuration with a receiver at the drop port;

FIG. 22 shows an exemplary wrapper network;

FIG. 23 shows an exemplary wrapper network with a LOL everywhere behavior;

FIG. 24 shows an exemplary wrapper network with a LOL at end-node behavior;

FIG. 25 shows an exemplary wrapper network with a LOL at failure behavior;

FIG. 26 shows an exemplary wrapper network with LOL at failure and end-node behavior;

FIG. 27 shows exemplary failure isolation through negotiation with an upstream node in accordance with an embodiment of the present invention; and

FIG. 28 shows exemplary failure isolation through out-of-band AIS signaling.

DETAILED DESCRIPTION OF A PREFERRED EMBODIMENT

As used in this description and the accompanying claims, the following terms shall have the meanings indicated, unless the context otherwise requires:

Add-node	The first photonic crossconnect (PXC) encountered in the direction of signal flow. For a bi-directional lightpath, the same PXC would be a Drop-node for the signal flowing in the reverse direction.
All-optical	Optical switching without OEO conversions in the data path.

ADP	Autodiscovery process – process for automatically discovering and verifying physical adjacencies and optical connectivity involving PXCs in an optical network.
AIS	Alarm Indication Signal – a signal that may be generated by a node after an IRS is detected. In the case of SONET, we are interested in Line AIS (AIS-L) condition.
BDI	Backward Defect Indicator.
BER	Bit Error Rate.
Client	An NE in which a lightpath originates or terminates, such as an Internet Protocol router or SONET Add/Drop Multiplexer.
Demux	Demultiplexer.
Digital Wrapper	An implementation of ITU-T standard for optical transport network (OTN), where the client payload is encapsulated within a standardized framing structure, denoted as wrapper, to provide transparent interface to the optical network. The terms "Digital Wrapper" and "Wrapper" will be used interchangeably.
Drop-node	The last PXC encountered in the direction of signal flow. For a bi-directional lightpath, the same PXC will be an Add-node for the signal flowing in the reverse direction.
Drop side	The Client or PXC facing port of an OEO which is not WDM wavelength specific. It normally operates in 1310 inn range for SR and VSR interfaces, where as 1550 nm for IR and LR interlaces.

DWDM	Dense WDM.
End node	An add-node or a drop-node.
EXC	Electrical Crossconnect – an OXC in which optical signals are processed electronically through OEO conversions.
FDI	Forward Defect Indicator.
IR	Intermediate Reach.
IRS	Invalid Received Signal – a condition that can arise from LOF, LOL, LOT, High BER, and other events. It does not include an AIS condition.
Line side	The interface between an OEO and possibly another OEO which is WDM wavelength specific.
Lightpath	A path providing connectivity between two Clients of an optical network to facilitate (bi-directional) transmission of signals in the optical domain. For the opaque application, a lightpath may traverse a number of OEOs.
LOF	Loss Of Frame.
LOL	Loss Of Light.
LOS	Loss Of Signal.
LOT	Loss Of Transitions.

LR	Long Reach.
Mux	Multiplexer – combines multiple optical signals onto a single fiber.
NE	Network Element.
NMS	Network Management System.
OEO	Optical-to-Electrical-to-Optical conversion. A transponder (wavelength translater) to translate an input 1550 nm wavelength to the same or other 1550 nm wavelength, where the process of translation involves converting optical signal to electrical signal and back to optical. Due to this particular sequence of conversion, it is assumed that such a device has access to the signal payload to detect BER, trace ID, etc. The term OEO will also be used to reference any device that converts 1310 nm to 1550 nm (WDM) wavelength.
OCh link	A physical link starting from an OEO and terminating at a corresponding OEO and is wavelength specific. Hence for an OEO that performs 1310 to 1550 nm conversion, OCh link will start and terminate at the 1550 nm side.
Opaque	Optical switching with OEO conversion in the data path.
OPI	OEO Provisioning Interface. An out-of-band signaling protocol that enables non-real-time information to be exchanged between a PXC and an adjacent TNE.

OXC	Optical Crossconnect – a system that switches optical signals between various inputs and outputs.
PXC	Photonic Crossconnect – an OXC in which no optical-to-electrical conversions occur in the data path.
Rx	Receiver.
SDH	Synchronous Digital Hierarchy. An ITU standard for synchronous data transmission over fiber optic networks.
SONET	Synchronous Optical Network. An ANSI standard for synchronous data transmission over fiber optic networks.
SLA	Service Level Agreement - a level of service to be provided to a Client by the network.
SPMesh	Shared Path protected Mesh.
SR	Short Reach.
Thru-node	A PXC that is used to pass a lightpath through (i.e., does not terminate the lightpath).
TNE	Transport NE - an NE that represents a collection of OEOs.
TNE ports	Same as OEO.
TNNI	Transport Node to Network Interface. An out-of-band signaling protocol that enables real-time information, such as defect indications, to be exchanged between a PXC and an adjacent TNE.

Tx	Transmitter.
UNI	User to Network Interface - the interface between a client node and the PXC.
VOA	Variable Optical Attenuator.
VSR	Very Short Reach.
WDM	Wavelength Division Multiplexing – any technique by which two or more optical signals having different wavelengths may be simultaneously transmitted in the same direction over one fiber, and then be separated by wavelength at the distant end.
WDM line system	A collection of NEs required to transport a WDM signal. This includes OEOs, optical amplifiers, optical fiber, as well as other passive devices such as WDM couplers etc.
WDM link	A physical link carrying WDM signals. It starts from a WDM multiplexer (after an OEO) and terminates at a WDM demultiplexer (before an OEO).
XNNI	The PXC-PXC signaling interface. An out-of-band signaling protocol that enables exchange of control and possibly defect information between adjacent PXCs.

It should be noted that the terms TNNI and XNNI are used as generic names for certain signaling protocols used in various embodiments of the invention and are not meant to reference any specific protocols that bear the same names.

1 Introduction

Several techniques are described for accomplishing automatic discovery and verification of physical adjacencies and optical connectivity involving PXCs in an optical network. Opaque as well as All-Optical applications of PXC are covered. Several methods for isolating failures are also described.

1.1 Photonic Crossconnect (PXC)

For the sake of this discussion, a system is said to be a PXC if it is an OXC with no Optical-Electrical conversions that are performed in the data path in the system. Furthermore, for the sake of this discussion, it is assumed that the PXC has duplex ports and it is strictly non-blocking (i.e., any port can be connected to any other port in the system). It is assumed here that the PXC duplex port has an input port and an output port and is interconnected to other equipment via separate fibers. An input port of the PXC is called a PXC Rx port. The output port of the PXC is called a PXC Tx port. It is assumed that the PXC Rx port can detect optical power level on the incoming signal and hence recognize LOS if the input power goes below a set threshold.

1.2 DWDM Systems

DWDM systems are Optical transport systems that provide increased capacity by multiplexing several wavelengths on one fiber. Today, most DWDM systems are point-to-point DWDM systems. In this case, the DWDM line systems may be connected using terminal equipment to optical crossconnects to create an optical network. The DWDM links are terminated by terminal equipment such as transponders. They will be called WDM OEO for the purpose of this discussion. The WDM OEO is responsible for regenerating an optical signal by performing an OEO conversion. The WDM OEO may be modeled as having four ports - two ports facing the PXC (also called Drop-side ports) and two ports facing the DWDM line equipment (such as Mux/Demux), also called Line-side ports. The four ports may be located on one or more physical cards. The signals

generated by the WDM transponders use different wavelengths spaced sufficiently apart and are multiplexed by a Mux and fed on to a single fiber. The combined signal is amplified every 50 or so kilometers. At the end of the link, the signal is demultiplexed by a Demux, and the separate wavelengths are fed into the WDM Receiver equipment. Note that the drop side interfaces of the WDM equipment may not use WDM wavelengths. In the case of an All-optical network, the individual channels on the WDM link are not necessarily terminated by WOM OEOs immediately after demultiplexing. Instead, the signal maybe switched - using a PXC - into a WDM channel belonging to another WDM link. The signal may be terminated using a WDM OEO device only when it leaves the optical network or if there is need for electrical regeneration to increase the signal to noise ratio.

2 Links

FIG. 1 shows an exemplary opaque application of a PXC in accordance with an embodiment of the present invention. The network consists of WDM line systems, OXCs, and Client equipment. The WDM line systems are assumed to be point-to-point transmission systems for the purpose of this document, meaning that all channels in a WDM link are terminated at the same location. The OXCs may be PXCs or EXCs. Examples of Client equipment include IP routers, SONET aggregation devices, and SONET add/drop multiplexers, to name but a few.

Even though most of the PXC ports in an opaque application are physically connected to OEOs (TNEs) through links referred to as PXC-TNE links, other types of logical links are required to provide information flow to control such a network. These links can be broken down into following categories:

1) PXC-PXC link
2) PXC-Client link
3) PXC-EXC link
4) PXC-TNE link

These links are discussed in more detail below.

2.1 PXC-PXC link

In an opaque application, PXC-PXC link is a logical bi-directional link between (bi-directional) ports of two adjacent PXC nodes. As shown in FIG. 2, each logical PXC-PXC link is a concatenation of three physical entities (PXC-TNE: TNE-TNE: TNE-PXC). The logical connectivity provided through PXC-PXC links is useful in building topology database to be utilized for routing lightpaths. The characteristics of the PXC-PXC link, in general, depends on the supported TNE-TNE link. The description of these variations, shown in FIG. 2, follows.

2.1.1 No TDM multiplexing

In the configuration shown in FIG. 2(a), the OEO attached to the PXC is assumed to have no TDM multiplexing capability. Hence each logical PXC-PXC link will be physically mapped to each OCh link connecting two adjacent PXCs. The PXC-PXC link inherits the characteristics of the attached OEO. In opaque application, the attached OEO can be either of:

1) SONET (in) - SONET (out): In this case, the PXC-PXC link is an end-end SONET link.

2) SONET (in) - Wrapper (out): In this case, the PXC-PXC link can be logically perceived as SONET link, where the physical transmission within the WDM-WDM link is being carried out in digital wrapper format. The OEO is responsible for taking a SONET signal on the Drop side Rx port and creating a Wrapper signal to be sent out on the Line side Tx port. At the other end of the link, the OEO removes the Wrapper and transmits the SONET signal on the drop side Tx port.

3) Wrapper (in) - Wrapper (out): In this case, the PXC-PXC link is an end-end wrapper link, and therefore can be considered as protocol transparent. Wrapper overhead bytes can be used for autodiscovery, link verification, and lightpath trace monitoring. Note that a SONET signal from the Client node has to be 'wrapped' using an additional OEO between client and PXC. Such a terminal is often called an On-ramp/Off-ramp OEO.

4) SONET/Wrapper (in) - SONET/Wrapper (out): In this case, the drop and the line side of the attached OEO can be individually programmed to perform in SONET or wrapper mode. Hence, this configuration can be considered as a generalization of the variations discussed above.

Based on the length of the WDM link between adjacent PXCs, there may be a need to perform OEO regeneration. The type of regeneration required will be dependent upon the WDM transmission. For the three types of TNEs discussed above, only the first type will require a SONET (in) and SONET (out) regenerator. The rest are Wrapper regenerators.

2.1.2 TDM multiplexing at both ends

In the configuration shown in FIG. 2(b), the OEO attached to the PXC is assumed to have TDM multiplexing capability. Therefore, each physical OCh link connecting two adjacent PXCs will carry multiple logical PXC-PXC links. This configuration will be relevant when PXC is used to provide agility at rates lower than the line rate, such as OC-192 add drop capability with OC-768 transmission.

This configuration can have the same variations of SONET and digital wrapper transmission as specified in section 2.1.1.

2.1.3 TDM multiplexing at one end

In the configuration shown in FIG. 2(c), the OEO attached to one of the PXC is assumed to have TDM multiplexing capability. Hence, there will be one-to-many mapping of logical links between adjacent PXCs. This configuration will be relevant when PXC at one location is used to provide agility at sub-line rates whereas the other end is involved in cross-connecting at the line rate.

2.2 PXC-Client link

For opaque application, the PXC-Client link may or may not require an OEO is between the client equipment and the PXC port. The presence of OEO is necessitated by the following reasons:

1) Link budget: An OEO will be necessary if the Client equipment or the network side OEO cannot handle the loss through PXC and patch panels.

2) Transparency requirement: A SONET-to-Wrapper OEO between client and PXC can provide the protocol transparency without requiring programmable OEOs on the line side. Such OEOs are referred to as On-ramp and Off-ramp cards.

3) SLA and performance monitoring: The OEO may be required to isolate the faults and do performance monitoring at the network boundaries.

4) Multiplexing: The OEO may be required to perform multiplexing at the tributary side, before performing switching at the PXC. This will happen in cases where the client ports are at sub-line rate and require no further grooming at intermediate PXC sites.

5) Protection switching: The OEO may be required to detect failures within the PXC network without requiring interworking between PXC and surrounding line systems.

FIG. 3(a) shows an exemplary PXC-Client link with no OEO between the Client and the PXC.

FIG. 3(b) shows an exemplary PXC-Client link with an OEO between the Client and the PXC.

FIG. 3(c) shows an exemplary PXC-Client link with a 4:1 multiplexer between the Client and the PXC.

FIG. 3(d) shows an exemplary PXC-Client link with a remote Client.

2.3 PXC-EXC link

The PXC-EXC links will be required to support hybrid network configurations, where grooming at both optical and electrical layers is required. Based on the application, the relationship between PXC and EXC can be that of a peer or a client-server. The peer relationship implies that both PXC and EXC will participate in making lightpath routing and protection switching decisions at the optical layer. On the other hand, client-server relationship between PXC and EXC implies a layered network, where the PXC provide layer-0 (optical layer) service to the EXC. For a peer relationship, the PXC-EXC link can be thought of as a PXC-PXC link, whereas for a client-server relationship, the PXC-EXC link can be considered as PXC-Client link.

In addition to the differences based on control plane architecture, other variations are possible. These are based on the interface between WDM line system and EXC, and are:

1) Integrated WDM links and the EXC interface: This is a possible interface for connectivity between EXC and WDM line system belonging to the same vendor.

2) Non-integrated: This is a possible scenario for interface between EXC and WDM line system belonging to separate vendors.

FIG. 4(a) shows an exemplary PXC-EXC link where the PXC and EXC are co-located and the OEO and EXC interfaces are non-integrated.

FIG. 4(b) shows an exemplary PXC-EXC link where the PXC and EXC are co-located and the OEO and EXC interfaces are integrated.

FIG. 4(c) shows an exemplary PXC-EXC link where the PXC and EXC are not co-located and the OEO and EXC interfaces are non-integrated.

FIG. 4(d) shows an exemplary PXC-EXC link where the PXC and EXC are not co-located and the OEO and EXC interfaces are integrated.

2.4 PXC-TNE link

The PXC-TNE link specifies the local physical connectivity/adjacency between the PXC ports and TNE ports (OEOs). Possible variations are covered in the description of PXC-PXC link types in section 2.1, and are:

1) PXC-TNE link with no TDM multiplexing

2) PXC-TNE link- with TDM multiplexing

In an opaque application, as shown in FIG. 1, the PXC is surrounded by OEOs. The presence for these OEOs is driven by many reasons, some of which are discussed in section 3. Given the presence of these OEOs, some form of interworking between PXC and these OEOs, representing line system, is required and is discussed in the section below.

2.5 Configuration of TNE ports

In general the TNE ports (OEOs) attached to the PXC ports will require configuration for various reasons. Some reasons are:

1) LOL mode: If supported by the attached TNE, configuration may be required to switch on or off the LOL behavior of an OEO to support the desired flavor of opaque application as discussed in section 4. For example, this configuration may only be required at provisioning of TNE for an LOL everywhere scenario, whereas it may need a dynamic reconfiguration to support LOL at the end-node only (applicable to all links).

2) SONET/Wrapper mode: This may need to be configured to avoid repeated transitions between SONET and wrapper for pass thru connections (not applicable to PXC-Client link).

3) Alarm mode: For appropriate LOL behavior as well as fault localization, it may be desirable to configure the alarm reporting mode of a TNE port (applicable to all links).

4) VOA level: In the case of a long reach (LR) OEO between client and PXC, it may be required to attenuate the output signal before it is cross-connected to the line side OEO (applicable to PXC-Client link only).

5) Injection and Reporting of Test patterns in overhead bytes: In order to facilitate autodiscovery, link verification, and path trace monitoring, it is useful if the PXC can command the OEO to inject test patterns in unused overhead bytes and to report them.

6) Autoport mode: The attached OEO can be provisioned in autoport mode, whereby the TNE will not generate alarms until it has seen a good signal.

7) Distinguish between LOL and other LOS criteria (loss of transitions, etc.): This may help autodiscovery if unmodulated alignment laser is used to light a fiber.

8) Loopback OEO: If supported by attached TNE, looping back output of OEO to its input will help full verification of idle PXC-TNE links. It will also eliminate spurious alarms generated from TNE during idle state.

9) Generation of ODUk-OCI for wrapper networks: The OEO can be provisioned (through TNNI) to generate a non-AIS maintenance signal on the line before it sees a good signal from PXC port. This signal, ODUk-OCI, can be used to distinguish between idle link and failure in the middle of a link.

It should be noted that there may be a need for configuration of other parameters of TNE ports based on UNI or administrative provisioning which is not within the scope of current document.

2.6 PXC Opaque Application

In the opaque application, the optical network consists of a set of network elements that are optical switches/optical crossconnects and are linked together by point-to-point DWDM transport systems.

Note that all the switching elements need not be PXCs. Some of them may be OXCs that perform OEO conversion along the data path in the OXC. The equipment that is connected to the optical network to use the services offered are called Clients. Examples of clients include IP routers. Clients are usually connected to crossconnects, although they may also be connected directly to the WDM terminals. In this application, the DWDM links are necessarily terminated at each PXC.

Among other things, the present application addresses the issue of automatically discovering the adjacency information as well as periodically verifying that the connectivity discovered remains valid. There are two types of adjacencies of interest, namely PXC-WDM adjacencies and PXC-PXC adjacencies. These adjacencies are shown in FIG. 5.

The following PXC-WDM adjacencies exist in FIG. 5:

- PXC1-OEO1
- PXC2-OEO2

The following PXC-PXC adjacency exists in FIG. 5:

- PXC1-PXC2

For each adjacency, there are two directions of interest.

PXC-WDM adjacencies:

- PXC1 Tx -> OEO1 Rx
- PXC1 Rx <- OEO1 Tx
- PXC2 Tx -> OEO2 Rx
- PXC2 Rx <- OEO2 Tx

PXC-PXC adjacencies:

- PXC1 Tx -> PXC2 Rx
- PXC1 Rx <- PXC2 Tx

The arrow indicates the direction of the optical signal.

In addition to the port-port adjacency, it is also important to ascertain the type of optical signal that the link can carry. This can be characterized using Signal Rate and Protocol. For example, the Signal Rate may be 10 Gigabits per second and the Protocol may be SONET. It is possible that the link may be capable of supporting variable rates and

protocols as well. It is assumed that the adjacency information is stored in terms of bi-directional adjacencies.

Thus, as an example, the adjacency information discovered for FIG. 5 may be written as follows:

PXC-WDM adjacencies:

(PXC1, Port 5, Tx, OEO1, Port 3, Rx, 10 Gig, SONET)
(PXC1, Port 5, Rx, OEO1, Port 3, Tx, 10 Gig, SONET)
(PXC2, Port 7, Tx, OEO2, Port 4, Rx, 10 Gig, SONET)
(PXC2, Port 7, Rx, OEO3, Port 4, Tx, 10 Gig, SONET)

PXC-PXC adjacencies:

(PXC1, Port 5, Tx, PXC2, Port 7, Rx, 10 Gig, SONET)
(PXC1, Port 5, Rx, PXC2, Port 7, Tx, 10 Gig, SONET)

Since the PXC devices are All-optical switches, they does not have direct access to the bits in the incoming signal. They also do not have the capability of injecting a light signal by itself into the WDM OEO equipment. However, they may use test equipment to receive and transmit valid signals that will aid in the autodiscovery process. The test equipment may be considered internal to the PXC equipment. It is possible to use spare WDM OEO as test equipment. This is discussed in a separate section.

The ADP requires a signaling protocol between the PXC and attached WDM equipment as well as between adjacent PXC nodes. In-band signaling is difficult to use as the PXC has no easy access to the bits in the optical signal.

The signaling protocol between a PXC and the attached WDM equipment may therefore use an Out-of-Band (OOB) signaling protocol. For the purposes of this discussion, this

protocol will be called TNNI. The signaling protocol between a PXC and an adjacent PXC may also use an Out-of-Band (OOB) signaling protocol. For the purpose of this paper, this protocol will be called XNNI.

The ADP on the PXC and the WDM equipment will use the TNNI protocol to communicate with one another.

2.7 PXC All-Optical Application

In the all-optical application, the DWDM signal is not necessarily terminated at a PXC. With reference to FIG. 6, there are two types of PXC-WDM links, specifically All-optical links where the WDM equipment attached to the PXC is not an OEO device and Terminal links where the WDM equipment attached to the PXC is a WDM OEO transponder as in the opaque application. There are also two types of PXC-PXC links, specifically All-optical links that do not have OEO devices on the data path and Semi-Opaque links that have WDM OEO transponders at one end of the link.

3 Autodiscovery and Link Verification

3.1 Problems Addressed

This disclosure covers the following problems and provides various solutions:

1) Discovery of PXC-WDM links in the Opaque and All-Optical application. This refers to the automatic discovery of links between a PXC and surrounding WDM equipment. In the Opaque application, the WDM equipment adjacent to a PXC port is a WDM OEO (transponder). In the All-optical application, the WDM equipment adjacent to a PXC port could be a WDM OEO or some other device such as a VOA or a Mux/Demux port.

2) Idle link verification of PXC-WDM links in the Opaque and All-Optical application. It is necessary to verify that PXC-WDM links that are not carrying live traffic currently

are capable of carrying traffic when called upon to do so. To that end, optical connectivity between the PXC ports and attached WDM equipment should be continuously or at least periodically verified. Continuous verification of a link is difficult if there is no light source at the end of the link as in the PXC Tx -> WDM Rx case.

3) Discovery of PXC-PXC links in the Opaque and All-Optical application. This refers to the automatic discovery of links between neighboring PXC nodes. In FIG. 2 above, there is a bi-directional link between port 5 of PXC1 and port 7 of PXC2. This link may be directly discovered with or without the aid of the WDM equipment that is part of the link.

4) Idle link verification of PXC-PXC links in the Opaque and All-Optical application. A PXC-PXC link may be idle because it is unallocated for traffic or it is reserved to be used in case of a protection switch. Therefore, it is important to keep monitoring the connectivity and the health of an idle PXC-PXC link so as to guarantee high levels of availability in the optical network. It is desirable to have the link monitored constantly. In case that is infeasible, at the very least, periodic verification of the link is essential.

3.2 Autodiscovery Process

The ADP is controlled and coordinated by the PXC nodes. The communication between a PXC node and adjacent WDM equipment nodes is carried out via an Out-of-Band signaling protocol called TNNI. The communication between neighboring PXC nodes is carried out with an out of band signaling protocol called XNNI. The PXC nodes are also responsible for controlling the behavior of the test equipment participating in the process. Note that it is possible to use spare WDM equipment as test equipment, and, in that case, it is controlled via TNNI.

The ADP has three parts. There is the component that resides on the PXC and is responsible for coordination and control of autodiscovery and link verification. Then there is a component that runs on the WDM equipment. This is responsible for

controlling the behavior of the WDM equipment and perhaps the test equipment. There is also a component in the PXC node that controls the resource reservation issues with respect to the test equipment.

Aside from the state machines that are part of the protocols, there is a `driver' process that runs the state machines on the PXC nodes and is responsible for initialization, resource allocation, synchronization, and other functions.

Initialization of ADP consists of the following steps:

1) Read the PXC Topology database and build a candidate list of PXC ports whose adjacencies to discover and verify.

2) For each member of this candidate list, initialize the state machine according to the protocol.

3) For every WDM node adjacent to the PX, get the MappingTable via TNNI. This provides the list of candidate WDM ports whose adjacencies should be discovered.

4) For every adjacent PXC node, get the Mapping Table via XNNI. This provides the list of candidate PXC ports on neighboring PXC nodes, same of whose ports may be connected to local PXC ports via a common WDM link.

3.3 Assumptions

The following assumptions are made:

1) The signaling between the PXC nodes and adjacent WDM equipment can be accomplished by a protocol which, for the sake of this disclosure, is called TNNI.

2) The signaling between the PXC nodes can be accomplished by a protocol which, for the sake of this disclosure, is called XNNI.

3) It is assumed that Test messages can be sent using overhead bytes in the data stream. For example, Section Trace J0 bytes may be used for a data path carrying SONET OC192 data. There is no assumption as to exactly what bytes are used, but just that some bytes are available.

4) It is assumed that every entity that needs to be discovered has associated with it an identity pattern that is unique in the network. It is also assumed that the mapping between the identity pattern and the identifier used to address the entity is known to the entity.

5) Test equipment is assumed to be available that meets the individual requirements of the various embodiments described herein. For example, some embodiments require that the test equipment report the identity pattern received on certain overhead bytes, and some embodiments require that the test equipment generate a pilot tone. Other test equipment requirements are discussed.

4 Autodiscovery and Link Verification Embodiments

4.1 Test Equipment

It is proposed that test equipment (Test Tx, Test Rx) be shared across all PXC ports that need to be discovered. In particular, the following options are noted:

1) The test equipment may be spare WDM Tx and Rx ports on the WDM line system and the ADP will use TNNI to communicate with the test equipment as it does with the other WDM ports.

2) The test equipment may be attached to dedicated test access ports of the PXC and considered internal to the PXC node, as shown in FIG. 7.

4.2 Fast autodiscovery of PXC-OEO links.

This is applicable in the Opaque application as well as the terminal sites in the All-Optical application of the PXC.

Several methods are outlined below. The descriptions below assume that discovery of adjacencies of PXC and WDM OEO nodes has already been carried out. A trial and error procedure may be necessary to discover the correct signal rate and protocol. The procedures below assume that the correct signal rate and protocol have been identified.

4.2.1 Proposal 1:

This proposal has two phases. A first phase discovers the unidirectional adjacency associated with a candidate PXC Rx port. Discovery is said to have completed if the first phase is successful. A second phase verifies bi-directional connectivity and is carried out immediately alter a successful first phase.

The two phases are carried out for all candidate PXC ports whose adjacencies need to be discovered.

Initialization:

6) All the candidate WDM Drop side Tx lasers are turned on. In order to accomplish this, the ADP on the PXC informs the candidate WDM Tx ports, via TNNI, to turn their lasers on.

7) For each WDM Tx and Test Tx, there is a system wide unique Identity Pattern. This pattern may be carried out in band overhead bytes (For example, Sonet Section Trace J0 bytes). The Test Rx and WDM Rx will report the Identity pattern received in the incoming signal, upon demand.

8) A candidate WDM OEO Drop side Tx, upon power on, sends out its Identity pattern (using the above mentioned overhead bytes). It is said to be in Insert mode. In Passthrough mode, the WDM Drop side Tx transparently transmits whatever the WDM Line side Rx port receives.

9) The WDM nodes adjacent to the PXC send, via TNNI, a Mapping Table that maps the Identity pattern associated with the WDM Drop side Tx port along with the system wide identifiers of the four associated ports - the WDM Drop side and Line side Tx and Rx ports. The ADP at the PXC builds a list of candidate PXC ports and WDM ports whose adjacencies need to be discovered.

Phase 1 consists of the following steps:

For each candidate PXC port do the following:

1) Ensure that the candidate PXC Rx port whose adjacency needs to be discovered is receiving light.

2) Reserve a Test Rx.

3) Crossconnect the PXC port to the known test receiver port.

4) Autodiscovery process asks the test receiver to report the Identity message it sees.

5) The Test receiver reports the Identity message to the ADP.

6) The PXC maps the Identity message to WDM Tx port id and WDM Node id.

7) The PXC infers the bi-directional mapping of WDM port to PXC port, based on Mapping Table information, in case of a successful step 4.

8) Delete the crossconnection.

9) Release the Test Rx resource.

10) Send message to switch the WDM Tx to Passthrough mode.

11) Receive acknowledgement from WDM Tx.

Phase 2 consists of the following steps:

For each PXC port mapped in Phase 1 do:

1) Reserve Test Tx.

2) Crossconnect PXC port to the known Test Tx. Suppose that in the previous phase we discovered (PXC port j, WDM Node id, WDM port id) mapping.

3) Send TNNI message to the WDM Rx port (inferred after Phase 1) to match the Identity pattern it sees with the Identity pattern of the Test Tx.

4) The WDM Rx reports match or mismatch.

5) Delete the crossconnection.

6) Release the Test TX resource.

Note that some of the steps can be carried out in parallel.

The following alternate proposals are variations on the above proposal. Some of the basic steps, such as Reserve Test Tx, Release Test Tx, Delete crossconnection, are in common and not described fully for every one of the following proposals.

4.2.2 Proposal 2:

As part of initialization, the mapping table is sent by the WDM controller to the ADP on the PXC via TNNI. Crossconnect the Test Tx to a candidate PXC port. All undiscovered WDM Rx ports are commanded to monitor for the Test Tx Identity pattern. When there is a match, the WDM Rx port reports it via TNNI. The PXC Tx - WDM Rx link is now discovered. From the mapping table, the WDM Tx - PXC Rx mapping can also be inferred. Repeat this process for all candidate PXC ports until all ports are discovered.

To verify the WDM Tx -> PXC Rx adjacency that was inferred from the above process, the ADP commands a WDM Tx port via TNNI to turn on and off its laser. The PXC port will detect the presence of light and loss of light at the PXC Rx port that is attached to the WDM Tx port. In this way, that particular adjacency is verified. This is to be carried out serially for all the adjacencies inferred above.

4.2.3 Proposal 3:

Same as proposal 2, except the verification step is carried out as follows:

The PXC Tx - WDM Rx link is verified by looping back the PXC bi-directional port to connect the WDM Drop side Tx port to the WDM Drop side Rx port. The WDM Rx would then switch from a LOS state to some other state (such as AIS). The WDM Tx will automatically send out a defect notification as part of the TNNI protocol. The TNNI defect notification that informs the ADP of a transition from LOS to AIS would confirm that the link is good.

4.2.4 Proposal 4:

This proposal uses a different scheme to discover the PXC Tx -> WDM Rx adjacency. The assumption is that Test Tx emits enough light so that the WDM Rx will detect that a loss of light condition is no longer present. It may not see a valid digital signal, but that is acceptable. So the Test Tx could be a simple broadband laser. The WDM Rx will report via TNNI a change in status from Presence of Light to Loss of Light and vice versa. The steps are as follows:

1) For a candidate PXC port, crossconnect the Test Tx to the PXC port.

2) Over TNNI, at most one WDM port will report a transition from LOL condition to Presence of Light condition. It also reports its identifier as well as the identifier of the matching WDM Tx and Rx ports.

3) From this; the PXC bi-directional port to WDM bi-directional port mapping is inferred. If no report is received, then move to Step 5.

4) The WDM Tx -> PXC Rx adjacency is verified using any of the methods outlined above.

5) Repeat this for another candidate PXC port until there are no more candidate PXC ports remaining.

4.2.5 Proposal 5:

This is similar to the previous proposal except that the Presence of light - Loss of light transition is used to detect the WDM Tx -> PXC Rx adjacency.

Discover a WDM drop side Tx as follows: by default, all WDM Tx are on emitting light. Pick a WDM Tx whose adjacency we want to discover. Via TNNI, command it to turn

off its laser. Exactly one PXC Rx port would notice loss of light condition. Thus, the WDM Tx -> PXC Rx link is discovered.

Any of the above schemes can be used to verify the PXC Tx -> WDM Rx adjacency.

4.2.6 Proposal 6:

The previous two proposals use the idea of turning light on and off and getting event reports about the Loss of light - Presence of light transitions to discover adjacencies. This proposal uses the same basic idea, but enables N adjacencies to be discovered in 1 + Log_2 N steps.

First, suppose that there are N WDM ports that need to be mapped to N PXC ports. Write N in binary as a sequence of at most 1 + log_2 N bits. Map these N sequences arbitrarily to the N WDM ports. Assign this mapping to the WDM ports via TNNI.

Then, via TNNI, the N WDM Tx are commanded to turn on and off their laser according to the pattern assigned to it. For a 1 bit, the laser is kept on for A seconds, for a 0 bit the laser is off for B seconds. Appropriate values for A and B chosen, and defaulted to 1 second.

The optical detectors attached to the PXC Rx ports monitor the pattern received at each port. From this, the binary sequence is rebuilt. From the above assignment, the WDM port identifier is inferred as is the WDM Tx -> PXC Rx adjacency.

Any of the above schemes can be used to verify the PXC Tx -> WDM Rx adjacency.

Modification 1: This procedure requires synchronization of all the lasers changing state at the same time. To alleviate this problem, we can prefix the pattern with a fixed length known sequence (say, 10 alternating 0 and 1 bits) so that the pattern can be correctly identified.

Modification 2: Furthermore, the WDM Tx repeats turning on and off the laser according to the modified pattern (original pattern | prefix bits) until it is commanded by the ADP via TNNI to stop transmitting because the adjacency has been mapped. This allows the ADP to make the mapping process more robust to average out possible errors.

Modifcation 3: Instead of using a long string of prefix bits, replace a 1 bit in the pattern with the string 10, the 0 bit with the string 01, and the prefix string is always is set to be 1100.

Modification 4: A problem with the pattern assignment described in Modification 3 is that it needs guard bits to ensure that a 0001 pattern does not get confused with a 0010 pattern. Now, we suggest that a scheme for pattern assignment be used so that the N patterns are such that cyclical shifts of a pattern do not result in another of the N assigned patterns. In that way, guard patterns are not necessary.

4.2.7 Proposal 7:

This proposal provides a fast way to discover the adjacencies. The entire process can be accomplished in roughly 1 + log_2 N steps, where N is the number of adjacencies to be discovered. The key idea is to add the WDM Receivers on ports that are already discovered to a pool of available receivers that can be used in the next step of autodiscovery.

Assume that the WDM Transmitters are programmed to send out an Identity pattern unique to the WDM Tx using overhead bytes (Sonet J0, Wrapper overhead, etc.).

Initially, the Available pool of Receivers is the Test Rx attached to a known PXC port.

1) As in Method 1, use a Test Rx to discover a single WDM Tx. This can be accomplished in one step by crossconnecting only to a PXC port that is reporting that it is

seeing light at the port. The Test Rx reports the pattern it sees and an adjacency is discovered. From this, the PXC Tx -> WDM Rx mapping is inferred. The mapping can be verified one of the methods mentioned above. Now, add the WDM Rx to the Available pool of Receivers.

2) Crossconnect two candidate PXC ports to the two WDM Rx in the Available pool. Upon reading the patterns, two more adjacencies can be inferred. Add the WDM RX to the Available pool of Receivers. Now, there are four Receivers in the Available pool.

3) Crossconnect four candidate PXC ports to the four WDM Rx in the Available pool. Upon reading the patterns, four more adjacencies can be inferred. Now, there are eight Receivers in the Available pool.

4) Continue on in this way doubling the Available pool after each step.

5) At the end, all N WDM OEOs are discovered within 1 + log_2 N steps.

4.3 Autodiscovery of PXC-WDM links in the All-optical application

We propose the following novel methods to discover PXC-WDM links when the WDM link is not terminated by a WDM OEO device at the PXC. In the model below, it is assumed that the WDM ports that are adjacent to PXC ports have Variable Optical Attenuators (VOA) and Pilot tone Receivers on them.

4.3.1 Method 1

This case deals with discovering the adjacencies labeled 1 and 2 in FIG. 8.

Adjacency 1: PXC to WDM: Crossconnect a Test Tx to candidate PXC port. The Test Tx is tuned to emit light at a wavelength outside the range used by the WDM system (for example, 1310nm or a wavelength in the 1550nm range that is not used by the WDM

system). The signal need not be modulated at all. The Pilot tone Rx attached to the VOA at the WDM port adjacent to the candidate PXC port detects some power at that wavelength and reports to the PXC via the TNNI interface. The adjacencies are discovered sequentially by cycling through all the candidate PXC ports.

Adjacency 2: WDM to PXC: Use the Amplified Spontaneous Emission (ASE) noise from the Amplifier adjacent to the Demux. The assumption is that there is enough noise that can result from the ASE so that the PXC port can detect it. The VOAs attached to the Demux are all set to shut out the ASE. Then, one by one, a VOA, is turned on and off. The PXC Rx port notices Presence of Light when the VOA is turned on. Note that the coordination and control of VOAs is accomplished via the TNNI interface.

Modification 1: The light source used to discover adjacency 2 is the ASE from the amplifier. Alternatively, one could switch in a broadband source behind the demux as shown in FIG. 9.

Modification 2: If the WDM equipment supports a loopback of an incoming signal, that means that the signal coming in on the PXC -> WDM link is looped back at the WDM port along the WDM -> PXC link without the signal entering the Mux/Demux. We can then crossconnect a Test receiver to the known PXC port and verify the connectivity.

4.3.2 Method 2:

Adjacency 1: The Test Tx in this case sends a signal modulated by Pilot tone. The Pilot tone receivers on the WDM system that are adjacent to the PXC report the tone they are receiving. From this information, the PXC-WDM adjacency can be inferred. By cycling through all the candidate PXC ports, all the adjacencies can be inferred.

Adjacency 2: The WDM -> PXC adjacency inferred after the above process can be verified using one of the methods mentioned earlier.

4.4 Autodiscovery of PXC-PXC links in the Opaque Application

4.4.1 Method 1:

The PXC-WDM links are discovered using one of the methods outlined above. In order to obtain the connectivity between PXC ports of adjacent PXC nodes (PXC1 Port 5 - PXC2 Port 7 in FIG. 5), the association between the WDM ports that terminate the WDM channel attached to the PXC ports (WDM OEO 1 port 3 - WDM OEO 2 Port 4 in FIG. 5) should be known. It is assumed in this method that the WDM line system knows this association and will report it to the PXC nodes (PXC1 and PXC2) via TNNI signaling.

The PXC nodes put the two pieces together to discover the PXC-PXC link. The two PXCs confirm by exchanging the information over XNNI.

4.4.2 Method 2:

The following assumptions are made:

1) The WDM Line side Tx on WDM OEOs adjacent to a PXC can insert an Identity pattern (unique id into Sonet J0 or other overhead).

2) The Line side Rx on WDM OEOs adjacent to a PXC can report the Identity pattern seen on the incoming signal.

3) Local mapping of PXC-WDM ports has been carried out.

The following steps are used to discover the links between two PXCs (say PXC A and PXC B):

1) Poll all the long reach Rx on WDM OEOs adjacent to PXC for the Identity pattern seen. The messaging is via TNNI. This can be done in parallel for all OEO ports.

2) For each valid Identity pattern seen, compute the WDM OEO Node identifier as well as the Port identifier.

3) Via XNNI signaling, report the Tx identifier that is seen to the source TNE. Report also the PXC port mapped to the corresponding long reach Rx port.

4) PXC infers the PXC port - PXC port links from the PXC-PXC messages and known local port mappings.

4.5 PXC-PXC Autodiscovery for an All-Optical Link

Consider a locally mapped PXC port. Inject a signal on the appropriate wavelength by crossconnecting a pilot tone Tx to this PXC port. On the remote end, look for presence of light on the candidate PXC ports. Wherever there is light, crossconnect a pilot tone Rx and recognize the tone. Note that we need enough tones to separate the pilot tone Tx's. Also, the signal should be strong enough so that the pilot tone Rx will recognize the tone, but weak enough so that it does not interfere with the channels that are already carrying traffic.

4.6 Idle link verification of a PXC-PXC link

The purpose of this invention is to automatically find out whether a link between PXCs, carried over an opaque WDM channel or over an all-optical channel, can be made operational if needed. This is needed for links that do not carry traffic and are ready to be part of a new connection or for shared protection links that have to be ready in case a working path fails. Without idle link verification, silent failures are possible. Idle link verification checks that the following elements are functional:

2. The PXC port.
3. The mirrors and data path associated with the port inside the PXC.

4. The line system port (WDM OEO or all-optical).

5. The data path from the line system port to the remote line system port.

6. The data path from the PXC to the line system port on both sides of the link.

The following methods are proposed for achieving idle link verification:

1) Opaque application only: Looping back the incoming signal from the WDM Tx port onto the same WDM Rx port at the PXC by creating a crossconnect of the PXC bi-directional port to itself. This allows for the WDM OEO to check that its drop-side signal is good and that the data path through the PXC is working. It also eliminates alarms on the WDM OEO. In order to verify the connectivity, the WDM drop side Tx port inserts its Identity pattern into the signal. This is then verified by the other WDM Rx ports along the path as shown in FIG. 10. The coordination of this procedure occurs via the XNNI protocol that runs between PXC nodes.

2) It is possible that Optical line systems may not prefer supporting closed loops as shown in FIG. 10 in their system. In order to prevent that from happening, we can modify the procedure described above by looping back one end of the PXC-PXC link and the other end in an alternating fashion so as to not create a closed loop at any time. The coordination and control of this process takes place via the XNNI protocol.

3) This method involves periodically connecting a Test Tx to a PXC port and signaling to the remote PXC via XNNI to connect a test receiver to the PXC port at the other end of the PXC-PXC link to check if the signal received is good. This will work for the opaque as well as the all-optical application. The Test Tx may be programmed to send its Identity pattern in the signal and the Test Rx can verify that it is seeing the same Identity pattern. In the case of the all-optical link, the Test Tx can send a signal modulated by pilot tone and the Test Rx can verify the tone received.

4) Verification of a link that is opaque at one end and not opaque at one end can be accomplished using Method 1 and Method 3 in this section. Note that in the case of

Method 1 here, there is only one WDM drop side Tx that will insert its Identity pattern into the signal.

4.7 Idle link verification of PXC-WDM OEO link

Method 1: Loop back the PXC port (crossconnect the Tx port to the Rx port at the PXC) so that the WDM OEO Rx receives the signal sent by the WDM OEO Tx. The WDM Tx inserts its Identity pattern into the signal and the WDM Rx confirms seeing the same Identity pattern in the incoming signal.

Method 2: Crossconnect a Test Tx to the PXC port. The verification can be accomplished using one of two techniques: a) WDM OEO Rx reports via TNNI that it is seeing a valid signal. b) WDM OEO Rx is told to look for the Identity pattern in the incoming signal. When the match is found, the WDM OEO reports it via TNNI. For the WDM OEO Tx -> PXC link, crossconnect a Test Rx to the PXC port and verify that the WDM Tx Identity pattern is seen in the incoming signal.

Method 3: Optical connectivity in the WDM Tx -> PXC Rx direction can be continuously verified if the following are true: a) The WDM drop side Tx laser is on if the link is idle; and b) The PXC port can detect Loss of Light condition. Optical connectivity in the PXC Tx -> WDM Rx direction can be verified as in Proposal 3 of Section 4.2.3. To recapitulate, crossconnect a Test Tx to the PXC port. The WDM Rx port reports via TNNI that it has noticed a transition from Loss of Light condition to Presence of Light.

4.8 PXC-PXC Idle link verification for an All Optical Link

Use tunable Test Tx. Tune to appropriate wavelength and low enough signal power so as not to disrupt the live channels on the WDM link. Modulate signal with pilot tone. Crossconnect Pilot tone Rx at the remote PXC and verify the tone received.

Alternatively, instead of using a Pilot tone Rx, simply verify that the PXC port is seeing light. Since it is behind a Demux, it will see light only if the WDM link is good for the appropriate wavelength.

5 Interface Issues

PXCs, in general, introduce some loss in the process of switching the signal from an input to the output port. The loss can be attributed to two major sources:

1) coupling loss due to connectors, collimators, and imperfections of reflective surfaces.

2) loss introduce by various passive components within the optical path, such as splitters, switches, couplers (for optical monitoring), etc.

The optical signal loss can be traded off by various simplifications in the architecture of the PXC. However, there is some minimum loss, driven by the physical properties of optical signal transmission through fibers and free space, which cannot be eliminated through design options. Among other reasons, presence of OEOs around PXC within opaque architecture is driven by the need to compensate for loss through the PXC switch core. Hence, the optical interfaces at the Client equipment and the WDM line equipment should be such that they can accommodate around 10dB insertion loss through the PXC node. They should also accommodate up to 2-3dB attenuation due to any patch panels along the path. Since standard short reach (SR) interfaces cannot accommodate about 12 dB of loss, there is a need for hotter transmitter and/or more sensitive receivers than SR interface. Presently, the loss can be met by IR or LR interfaces, and in the future by 12dB-VSR interfaces.

In addition to loss, some other restrictions are imposed on the optical interfaces connected to the PXC ports. Some restrictions include receiver clock recovery time and jitter. The presence of PXC in an optical network is driven by the need to provide agility at the lambda (or band) level. The agility inherently demands a quick receiver clock

recovery on the optical interfaces in the event of a reconfiguration of the network due to protection switching. Similarly, presence of OEOs surrounding a PXC can introduce additional jitter within the transmitted signal, especially in the cases when such OEOs are interfacing two different signal transmission schemes such as SONET and digital wrapper. Since WDM optical transmission is very sensitive to such impairments, optical interfaces should adhere to strict jitter control to minimize the impact on WDM link engineering.

In addition to fast reconfiguration, one of the key value propositions of PXC within an optical network is network protection. In general, PXC driven network protection is required to efficiently allocate resources to the working and protection entities within a network at the optical layer. In this role, PXC will require notification of failure events within the network. Even though some of the events can be detected through internal optical signal monitoring within a PXC, a comprehensive protection switching scheme requires additional defect indications, mostly available through OEOs within a SONET or digital wrapper network. In the absence of a signaling interface between PXC and surrounding WDM line systems, some of the required functionality for protection switching can be achieved through provisioning appropriate behavior of the optical interface of the surrounding OEOs. Some of these behaviors are discussed in the section below.

6 LOS behaviors of the WDM line systems

By LOS behavior of a WDM line system, we refer to the behavior of an OEO (TNE) upon seeing an LOS or AIS condition on an incoming signal. The LOS behavior of the attached OEO will influence the way the PXC can detect and isolate the failures within the optical network. Hence, it is an important element of the physical layer interoperability between PXC and the WDM line systems.

We propose several types of LOS behavior for a WDM line system. It is possible that for a lightpath, different segments of the lightpath may have different LOS behavior on the

OCh links. We only consider the case where the LOS behavior is the same for all links on a given lightpath.

For the rest of this section, it is assumed that XNNI (an out of band signaling protocol) is enabled between adjacent PXC nodes. This protocol enables exchange of control and possibly defect information between adjacent PXCs. Besides XNNI, another signaling protocol, between PXC and WDM line system, denoted as TNNI, is also part of opaque architecture shown in FIG. 1. Based on the permissible delay of specific information flowing across this interface, TNNI can be classified into "Fast" and "Slow" components. In this respect, Fast-TNNI is required for information that is in series with the protection switching decisions, such as defect indications. Some other information, which is required for provisioning of appropriate OEO behavior (from PXC to TNE) or failure isolation (from TNE to PXC) is not required in real time and can be supported through a Slow-TNNI interface. To avoid any confusion, in this document, we will use TNNI to refer to the fast component of TNNI interface and use OPI (OEO Provisioning Interface) to refer to the slow TNNI. It should be noted that there are no real time constraints with OPI and it can be supported through traditional management interfaces such as TL/1.

There is an alternative to OPI, where, if allowed, the PXC can provision some behaviors within the attached OEOs through NMS. However, for the type of information that needs to be provisioned through OPI, we can assume that going through NMS will not serve the purpose (as there may be huge amount of delays involved in going through north bound and south bound interfaces to and from NMS and such interfaces are not required to be online all of the time).

6.1 SONET network

We first consider the case of a SONET only network. The discussion is also valid for an SDH network. In the next subsection, we consider a Digital Wrapper based network.

For the rest of this section, we will consider the following types of failure conditions:

1) IRS. This condition can arise from Loss of transitions, Loss of light, Loss of frame, High BER, and other conditions. It does not include an AIS condition.

2) AIS. In most of the cases, AIS is generated by a node after an IRS is detected. In the case of SONET, we are interested in Line AIS (AIS-L) condition.

In SONET network, both IRS and AIS are mapped to Signal Fail (SF) condition for automatic protection switching (APS) purposes.

The behavior types are classified depending upon what an OEO does upon receiving an IRS or AIS. It can transform incoming IRS or AIS to LOL, LOT, or AIS. LOL stands for Loss of Light, which means turning off the output laser. LOT stands for Loss of Transitions, which means keeping the output laser on without any transitions (i.e., generating unmodulated output).

The following failure types are classified and numbered as shown in FIG. 11:

1: Failure of. PXC Tx -> OEO Rx link
2: Failure of OEO Tx -> Regen Rx link (or Regen Tx -> Regen Rx link)
3: Failure of Regen Tx -> OEO Rx link
4: Failure of OEO Tx -> PXC Rx link
5: Failure of OEO Tx -> OEO Rx link
6: Failure of Client Tx -> PXC Rx link
7: Failure of PXC Tx -> Client Rx link
8: Failure of PXC cross-connection

Note: Equipment failures are lumped with the corresponding link failures.

In the following discussion, one direction of lightpath is considered. Note that this is not a simplification.

The main types of LOS behavior are:

1) Type 1 - LOL everywhere
2) Type 2 - LOL at End node only
3) Type 3 - LOL at the failure point, AIS elsewhere
4) Type 4 - LOL at failure point, LOL at end node
5) Type 5 - Differentiated AIS everywhere

In addition to these, we have a solution without imposing any special LOS behavior on the WDM line system. We categorize that as Type 6 - TNNI only. This requires the WDM equipment to implement the TNNI protocol, which uses Out of Band signaling, between the TNE and the adjacent PXC node.

6) Type 6 - TNNI everywhere

We also discuss four solutions for an opaque network that do not require any special behavior on the part of the WDM line systems. All the modifications necessary are internal to the PXC system. They are as follows:

7) Type 7 - OEO at Add/Drop port
8) Type 8 - OEO at Drop port
9) Type 9 - AIS taps
10) Type 10 - Receiver at Drop port,

The following issues are considered for each of the solutions:

1) Failure forwarding: Refers to the transport of defect indication from the point of detection to the node where the protection switching decision is made. Since in a PXC network, the protection switching decision is performed by an end-node, it is required that the defect indication is passed on to the end-node, if it cannot detect the failure

condition autonomously. Hence in some of the LOS scenarios discussed below, where the end node cannot detect the failures either through internal LOL or through some of the other in-skin techniques described later, an explicit indication will be required either through the adjacent TNE or an out of band failure forwarding through XNNI.

2) Alarms: Refers to the ability of a given architecture to not generate or to be able to suppress undesirable alarms. It is important to avoid generating spurious alarms at the NMS. Some of the schemes outlined below will lead to the WDM line system and/or PXC nodes generating spurious alarms at the event of an upstream failure. This can lead to event storms and cause a lot of confusion to the operator. In addition to link or node failures, there may be other sources that lead to spurious alarms, such as idle link verification. In each of the scenarios, we will identify if there can be more than one contributor to undesirable alarms.

3) Provisioning: Refers to sending appropriate configuration information from PXC to the attached OEO to be able to interoperate in a given optical network Such information may be required to enforce a particular LOS behavior from the attached OEO. In some cases, such provisioning will be required only when the equipment is being put in service, however, in other situations, dynamic provisioning on a per lightpath basis may be needed. In each of the scenarios discussed below, we will identify the extent of provisioning required. As described earlier, the provisioning information is not required to be dealt with in real-time by the WDM line system, hence even the dynamic provisioning can be supported through OPI (slow TNNI instead of fast TNNI).

4) Failure Isolation: Refers to the process of identifying the source of failure based on the defect indications received by PXC nodes along a given lightpath. Since the control plane (either centralized using an NMS or distributed as in G.ASTN) needs to have an accurate view of all the links in the network and their status in order to make accurate routing decisions, the failure isolation is required to update the link state database, which indicates the status of a link to be either UP or DOWN. In most of the cases, the failure isolation is not required to be in real-time, however, in some of the cases, the failure

isolation is in series with the protection switching decision, and therefore may require fast failure isolation (ASON redial is one example). In the scenarios below, we will identify if failure isolation is possible and at what speed.

5) Client failure impact: Refers to the capability of a given architecture to conceal the effects of client failure within the PXC network. In some of the scenarios discussed below, PXC may unnecessarily invoke the protection switching in case of a Client failure. For 1+1 connections, its impact will be contained within the given lightpath, however, for shared mesh protection (SPMesh and ASON), unnecessary protection switching is costly as it causes preemption of low priority traffic on shared protection paths. It can also disrupt Client initiated protection switching.

6.1.1 Type 1 : LOL Everywhere Behavior

By LOL everywhere behavior, we mean everywhere in the network the PXC facing ports of the OEOs (drop side Tx) turn off their lasers on seeing any defect conditions (either IRS or AIS). In the table below, "Add OEO" refers to the OEO adjacent to the end-node where the lightpath is initiated, whereas "Drop OEO" refers to the OEO adjacent to the end node where the lightpath is being terminated. The East and West side OEOs surround a thru node on a lightpath.

The behavior can be described as follows:

Interface Type	Input	Output
Add OEO/East side OEO	IRS	AIS
(Drop side Rx -> Line side Tx)	AIS	AIS
Regen	IRS	AIS
(Line side Rx -> Line side Tx)	AIS	AIS
Drop OEO/West side OEO	IRS	LOL
(Line side Rx -> Drop side Tx)	AIS	LOL

An example of a Type 1 situation is shown in FIG. 12.

Discussion of Issues:

1) Failure forwarding: Protection switching decision can be made using the LOL condition at the PXC end node. That is, for all of the failure cases described in FIG. 11, we will have PX3 port Rx seeing LOL condition. There is no need for Out of Band forwarding of failure notification.

2) Alarms: It is assumed that the TNE ports will generate alarms when there is a transition into LOL condition. For a failure along PX1 -> PX2 link, PX2, PX3 and OEO3 (and all of the subsequent east-side OEOs), will also generate alarms. These are spurious alarms and are not desirable for normal network operation. A failure isolation scheme based on XNNI protocol can be used to mask flue alarms generated by PXC nodes, however the alarm masking for TNEs additionally require OPI. In addition, there will be spurious alarms for idle link verification, if we do not assume any interworking between the line system and PXC (i.e., even OPI do not exist).

3) Provisioning: The TNE ports can be configured once and for all, if need be, to satisfy the above behavior. There is no need for dynamic provisioning of the TNE posts in this case at the time of lightpath setup or protection switching (i.e., OPI is not required for provisioning of OEO behavior).

4) Failure Isolation: The PXC -> PXC link that failed can be determined by identifying the first PXC port that sees LOL. This can be achieved in real time by either of the failure isolation schemes discussed in section 5. Case analysis:

- Failure along PX1 -> PX2 link: PX2 and PX3 see LOL. PX1 does not see LOL.
- Failure along PX2 -> PX3 link: PX1 and PX2 do not see LOL. PX3 sees LOL.
- Failure along Client1 -> PX1 link: PX1, PX2, and PX3 see LOL. If on the other hand the client is sending AIS, then the failure cannot be isolated, and rather will appear

as a failure between PX1 and PX2 link (this is an issue with all of the LOL behaviors in a SONET network).

- Failure along PX3 -> Client2 is undetected by the PXC network (Note: Such failures are hard to manage by PXC without Client involvement. These will be addressed when trib side or client initiated protection are supported).

5) Client failure impact: If Client 1 generates AIS, it will cause a protection switch. This can interfere with Client layer protection. If Client 1 generates LOL, it may cause a protection switch at the far end PXC node in the case of 1+1 Platinum service. In the case of SPMesh Gold service, there will not be a protection switch.

In summary, Type 1 behavior has the advantage of fast failure notification at the PXC end node and possibly easy failure isolation, all without TNNI and/or special provisioning through OPI. Its main disadvantage is the generation of too many alarms everywhere downstream from the failure location. In addition, the architecture may not be feasible if TNEs do not convert incoming AIS into LOL. With respect to client failures, there will be a protection switch in case a client AIS is received, in addition the client AIS will not be isolated (client AIS isolation is not specific to this behavior only). Due to LOL condition everywhere, in this case the SPMesh connections will require use of internal alignment laser to dynamically create cross-connects on a protection switching event.

6.1.2 Type 2: LOL at End Node Only

In this case, only drop OEO (OEO adjacent to terminating end-node) is provisioned to switch off the laser in case a failure is detected (both IRS and AIS).

The behavior can be described as follows:

Interface Type	Input	Output
Add OEO/East side OEO	IRS	AIS

(Drop side Rx -> Line side Tx)	AIS	AIS
West side OEO Line side Rx -> Drop side Tx	IRS AIS	AIS AIS
Regen (Line side Rx -> Line side Tx)	IRS AIS	AIS AIS
Drop OEO (Line side Rx -> Drop side Tx)	IRS AIS	LOL LOL

An example of a Type 2 situation is shown in FIG. 13.

Discussion of Issues:

1) Failure forwarding. Protection switching can be accomplished using the LOL condition at the PXC end node. That is, for all of the failure cases described in FIG. 11, we will have PX3 port Rx seeing LOL condition. There is no need for out of band forwarding of failure notification.

2) Alarms: It is assumed that the TNE ports will generate alarms when there is an LOS condition. For a failure along PX1 -> PX2 link, PX3 will generate a spurious LOL alarm. Again, the alarm suppression can be handled through a failure isolation scheme within PXC domain. As will be pointed out in provisioning and failure isolation issues, this LOS behavior cannot work without OPI, hence we can assume that OPI will be present and can be used to suppress spurious alarms for idle link verification as well.

3) Provisioning: The TNE ports at the PXC end node (OEO4 Drop side Tx in FIG. 13) should be provisioned to follow the LOL behavior at lightpath provisioning time. This may be accomplished via an NMS for 1+1 connections. However, for SPMesh Gold service or ASTN Silver service, this provisioning needs to occur via OPI. (Note: For SPMesh, a PXC node on the protection path may be a through node for some lightpaths and an end node for some other lightpaths. In order to infer failures of the active

protection path and/or to complete the protection switch from working to protection path, dynamic provisioning of LOL behavior is necessary).

4) Failure Isolation: In this case, the failure isolation at the minimum requires OPI. With TNNI, real-time failure isolation is possible, which may not be guaranteed with OPI. The PXC -> PXC link that failed can be determined by identifying the first PXC port that sees LOL/AIS. However, this requires OPI as the PXC node cannot distinguish AIS from a good signal. Case analysis:

- Failure along PX1 -> PX2 link: PX2 sees AIS, PX3 sees LOL, and PX1 does not see LOL/AIS
- Failure along PX2 -> PX3 link: PX1 and PX2 do not see LOL/AIS. PX3 sees LOL.
- Failure along Client1 -> PX1 link: PX1, PX2, and PX3 see LOL/AIS.
- Failure along PX3 -> Client2 is undetected by the PXC network.

5) Client failure impact: If Client 1 generates AIS, it will cause protection switch. This can interfere with Client layer protection. If Client 1 generates LOL, it may cause a protection switch at the far end PXC node in the ease of 1+1 Platinum service. In the case of SPMesh Gold service, there will not be a protection switch.

In summary, Type 2 behavior provides quick failure notification at the PXC end node, but it requires OPI for provisioning this special behavior at the TNE. OPI/TNNI is also required for failure isolation.

6.1.3 Type 3: LOL at failure, AIS elsewhere

In this case, the west side OEO downstream from the failure location will switch off the laser upon seeing a IRS/AIS.

The behavior can be described as follows:

Interface Type	Input	Output
Add OEO/East side OEO (Drop side Rx -> Line side Tx)	IRS AIS	AIS AIS
West side OEO (Line side Rx -> Drop side Tx)	IRS (at failure) AIS (elsewhere)	LOL AIS
Regen (Line side Rx -> Line side Tx)	IRS AIS	R-AIS AIS
Drop OEO (Line side Rx -> Drop side Tx)	IRS AIS	AIS AIS

Here R-AIS refers to Regen-AIS, which can be implemented in several ways. Some of the alternatives are:

- A WDM Regenerator converts a received IRS condition into an outgoing LOT condition, which is achieved by transmitting unmodulated light at the line side.

- By generating a normal AIS signal with some bit in the overhead set to indicate to the downstream TNE that it is an IRS condition.

An example of a Type 3 situation is shown in FIG. 14.

There are several serious problems with this approach:

1) The assumption that IRS into a Regen will translate into a R-AIS condition on the line may not be valid for some WDM line systems. If on the other hand, it translates an incoming IRS into an outgoing AIS, no PXC node on the lightpath will be aware of the failure (as PXC has no knowledge of the AIS condition without TNNI).

2) The defect may not be detectable at the end node, which requires a failure forwarding mechanism through an out of band XNNI protocol. Since the latency associated with

transport of defect indication across XNNI can be significantly large compared to detection at the end-node through an LOL, the protection switching time may not meet the SLA for 1+1 (it may also be the case for SPMesh).

3) An LOS failure on the PXC -> TNE link (e.g., PX2 -> OEO3) will translate into an AIS at every node downstream. In this case, no PXC node on the lightpath is aware of the failure.

Discussion of Issues:

1) Failure forwarding: In this case, failure forwarding is necessary. The PXC end node will not necessarily know of the failure (unless it is a failure of the TNE -> PXC link at the end node), so it has to rely on XNNI based message forwarding from the PXC node immediately downstream from the failure.

2) Alarms: There are not many spurious alarms in this case, only an additional LOS alarm generated by the OEO at the PXC node adjacent to the failure (e.g., OEO3 in FIG. 14). The suppression of this alarm will require a failure isolation scheme within PXC and existence of OPI.

3) Provisioning: No provisioning of WDM equipment is necessary on a per lightpath basis. Some static provisioning (at TNE commissioning time) to configure LOL mode may still be required.

4) Failure Isolation: If a PXC node other than the source node sees LOL (e.g., PX2), then the failure is isolated to the link between the immediately upstream PXC node and this PXC (e.g., PX1 -> PX2).

5) Client failure impact: If Client 1 generates AIS, it will not cause protection switch. If Client 1 generates LOL, then the first OEO on the path will convert it to AIS.

Furthermore, PX1 will not forward any failure information downstream. Therefore, there will not be any protection switching.

In summary, Type 3 behavior does not provide a complete solution.

5

6.1.4 Type 4- LOL at failure, LOL at end node

This is a modification of Type 3 behavior. We add the LOL behavior at the end node so that forwarding of failure to the end node is not necessary. It attempts to provide failure
10 isolation without OPI/TNNI as well as failure notification at the end node without TNNI. However, it still suffers from the two problems that afflict Type 3 as far as failure isolation goes. It works fine for failure notification at the end node.

The behavior can be described as follows:

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Interface Type	Input	Output
Add OEO/East side OEO (Drop side Rx -> Line side Tx)	IRS AIS	AIS AIS
West side OEO (Line side Rx -> Drop side Tx)	IRS (at failure) AIS (elsewhere)	LOL AIS
Regen (Line side Rx -> Line side Tx)	IRS AIS	R-AIS AIS
Drop OEO (Line side Rx -> Drop side Tx)	IRS AIS	LOL LOL

An example of a Type 4 situation is shown in FIG. 15.

There are a couple of problems with failure isolation is this approach:

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1) An LOS failure on the PXC -> TNE link (e.g., PX1 -> OEO1) will translate into an AIS at every node downstream except at the PXC end node which will see LOL. So failure isolation will require OPI in this case.

2) The assumption that IRS into a Regen will translate into an R-AIS condition on the line may not be valid for most WDM line systems. If on the other hand, it translates an incoming IRS into an outgoing AIS, failure isolation will require OPI.

Discussion of Issues:

1) Failure forwarding: In this case, the failure forwarding through XNNI is not necessary. This is because we have LOL behavior at the PXC end node.

2) Alarms: There are not many spurious alarms in this case, only two additional LOS alarms generated by the OEOs at the PXC node adjacent to the failure (e.g., OEO3) and end node PX3 that can be masked through failure isolation and OPI.

3) Provisioning: The TNE at the PXC end node has to be provisioned for LOL behavior on a per lightpath basis, and so requires OPI.

4) Failure Isolation: If a PXC node other than the source node sees LOL (e.g., PX2), then the failure is isolated to the link between the immediately upstream PXC node and the first PXC that sees LOL. For example, for a failure along PX1 -> PX2 as shown in FIG. 15, both PX2 and PX3 will see LOL, hence a failure isolation scheme described later can attribute the failure to PX1 -> PX2 link. This is true except for the two problem cases mentioned above.

5) Client failure impact: If Client 1 generates AIS/LOL, it will cause protection switch for 1+1 as the PXC end node will see LOL. SPMesh can mask off LOL as client signal defect, but client AIS will result in protection switching.

In summary, Type 4 behavior does not provide a complete solution. However, in most of the failure cases, it provides quick failure notification and easy failure isolation. Since the end node has to be specially provisioned for LOL behavior, it requires OPI.

6.1.5 Type 5: Differentiated AIS everywhere

The general idea behind this approach is to signal an ALS (from the attached OEO) in a manner that can be detected through optical signal detection mechanisms available in PXC. The two proposed variations of this approach are:

- Weak AIS everywhere
- Strong AIS everywhere
- Pulsed AIS everywhere

In the case of Weak AIS, the OEO drop side Tx launch power is lowered (3 dB below normal) when the signal generated is an AIS condition. The assumption is that the cross-connection through the PXC can still be accomplished (means 3 dB margin on the link budget). One advantage this proposal has over the LOL everywhere (Type 1) behavior is that with respect to the digital network, the TNE behavior is not altered. This leads to fewer alarms in case of a failure. Launching AIS at lower power also allows the PXC to distinguish between Loss of Light, AIS, and normal conditions.

In the case of Strong AIS, the OEO drop side Tx launch power is increased, say 3 dB above normal, when the signal generated is an AIS condition. The advantages associated with this proposal are the same as those outlined for weak AIS behavior. However, the assumption that the attached OEO is capable of increasing the launched power by 3dB may not be true for some OEOs, as the maximum output laser power may be limited on such interfaces.

In the case of pulsed AIS, the OEO drop side Tx will switch between AIS and LOL periodically, say every one second. This will allow the PXC to detect the presence of a

defect through internal LOL mechanisms, at the same time the generation of unnecessary LOS alarms by the OEOs will be suppressed. This is due to the reason that the generation of LOS alarms requires an integration period of 2.5 seconds. This scheme will not allow for fast distinction between AIS and LOL at the PXC, but it is not an issue, as the protection switching decision can be made through LOL detection only.

The behavior may be described as follows:

Interface Type	Input	Output
Add OEO/East side OEO	IRS	AIS
(Drop side Rx -> Line side Tx)	AIS	AIS
Regen	IRS	AIS
(Line side Rx -> Line side Tx)	AIS	AIS
Drop OEO/West side OEO	IRS	D-AIS
(Line side Rx -> Drop side Tx)	AIS	D-AIS

D-AIS stands for Differentiated AIS.

Technical Feasibility:

1) A major issue with this approach is that the power cool may only work for IR/LR interfaces on the drop side, as it may not be technically feasible to control the power of SR lasers.

2) The weak AIS approach assumes that the TNE-TNE or TNE-Client link with an intermediate PXC node can accommodate an extra 3 dB link loss (lower power differential for AIS signal such as 1- 2 dB may not work as it does not provide enough isolation between normal and AIS signal). This may not be a big issue as the PXC loss budget assumes very low BER requirement, which may not be the case for AIS signals.

3) As an alternative to lowering power on the drop side transmitter in the event of an AIS, special payloads can be constructed which result in lower average power measurement at the PXC port. The presence of AIS to the downstream TNE is indicated through AIS-L overhead bytes. This solution complies with the detection capabilities of AIS-L, but will not comply with AIS-L generation requirements.

4) An issue with pulsed AIS in the digital wrapper network is that the East side OEOs will switch between AIS-L and ODUk-AIS based on whether it sees AIS-L or LOL.

An example of a Type 5 situation is shown in FIG. 16.

Discussion of Issues:

1) Failure forwarding: In this case, the failure forwarding is not necessary as the PXC end node (PX3 above) will either see a D-AIS signal or LOL in case of lightpath failure.

2) Alarms: This is the main advantage of the differentiated AIS behavior over LOL everywhere. No alarms will be generated as the OEO still sees or generates valid signals, for weak/strong AIS, and the duration of LOL is below the slang threshold for pulsed AIS mode.

3) Provisioning: All the OEO drop side Tx should be programmed into either Weak, Strong, or Pulsed AIS mode once and for all (probably through NMS at equipment commissioning time). There is no need for dynamic provisioning.

4) Failure isolation: This is very similar to Type 1 LOL everywhere behavior. The failure isolation protocol described later in the document can be used. Client AIS conditions are still hard to detect.

5) Client failure impact: If the Client generates LOL, the source PXC end node notices this and can prevent protection switching from occurring. If the Client generates AIS, the PXC end nodes are not aware of this and this results in unnecessary protection switching.

6.1.6 Type 6: TNNI everywhere

In this case, we assume that TNNI is enabled at all points along the lightpath. TNNI enables FDI and DDI from the TNE to the PXC. In addition to this, PXC can determine LOL at the PXC port and an internal node failure. The WDM line systems have normal behavior. No special LOL behavior is required.

Discussion of Issues:

1) Failure forwarding: In this case, failure forwarding is not necessary as the PXC end node can infer about the failure via TNNI.

2) Alarms: WDM systems have normal behavior, so there are no spurious alarms on OEOs along the lightpath.

3) Provisioning: No provisioning is required for special behavior on the TNE ports other than to initiate/stop defect monitoring for enabling TNNI.

4) Failure Isolation: In this case, failure isolation is very easy; every PXC node needs to look at TNNI FDI and BDI and internal LOL conditions to determine if a PXC-PXC link is down. If necessary, it can inform the PXC node at the other end of the link about the failure.

5) Client Failure impact: An AIS from a Client can be detected by the first OEO on the path. This can be used to prevent unnecessary protection switching at the optical layer (unless the protection switching is carded out without signaling as in Xros 1+1 Platinum service).

In summary, Type 6 behavior is ideal for failure isolation as well as failure notification at the end node. Since failure isolation is quick, it can be used to implement different protection schemes such as hybrid link-mesh, segmented protection in domains, etc. It also permits WDM line systems to practice normal behavior, so there are no unwanted alarms. It also provides better detection of Client signal failure.

6.1.7 Type 7: AIS Tap

The idea here is to have special taps at the tributary side (add/drop) ports of the PXC. AIS detector circuits are attached to the taps. The AIS detector circuits can report an AIS or LOT/LOF condition on the signal that is being tapped, as shown in FIG. 17. There are two AIS taps at the output (one for each of the redundant paths) and one AIS tap for the input (tap at the input is optionally required to detect client AIS. If detection of client AIS is not important, input AIS detector can be removed).

Normal behavior of the W DM line systems is maintained in this case.

Discussion of issues:

1) Failure forwarding: Failure forwarding from the location of failure is not necessary as AIS and IRS conditions can be detected at the PXC end node.

2) Alarms: Normal behavior of WDM systems is maintained, so no unnecessary alarms are generated.

3) Provisioning: There is no need for any special provisioning of WDM line system equipment.

4) Failure isolation: In this case, failure isolation will be hard and cannot be done in real-time. Since there is no detection of a failure at an intermediate PXC node, failure

isolation can be performed by carrying out link verification on all links of a known failed path and is explained in section 7.3 below. The same drawbacks hold for all of the line system independent (standalone) solutions (Type 7 -Type 10).

5) Client failure impact: If the client generates an AIS, this will be detected by the AIS tap at the add port and the PXC will interpret this as a Client Signal Defect condition and protection switching will not occur. If the client output laser fails resulting in an LOL condition, the PXC add port will detect the LOL condition and protection switching can be prevented.

Note: in this case, we may not need an AIS tap at the client input. The solution will work as follows:

- For 1+1 connections, AIS taps are active on both working and protect path on local as well as remote end-node. The remote end-node, after seeing AIS on both taps, can infer that it is client AIS. However, the protection switching at the remote end-node cannot be avoided (as there is no signaling between local and remote end-node).

- For SPMesh connections, the client signal, during normal mode, is selected from the working path. Hence, the client signal can be looped back through the remaining core to detect client AIS.

6.1.8 Type 8: OEO at Add/Drop Port

In this case, an OEO is provided for each of the add-drop connection supported by the PXC, as shown in FIG. 18. The advantage associated with this approach is that it permits detection of the failure conditions existing in the optical network without any interworking with the surrounding line system. In addition, presence of an OEO between client equipment and PXC port provides a flexible interface. Some of the advantages associated with this flexible interface are:

- Clear demarcation for SLA verification across client Interface
- Isolation from link budget issues due to a weak client signal
- Architecture suitable for transition to a digital wrapper (OTN) network
- Easy detection of client AIS
- Normal behavior of the WDM line systems is maintained.

Some of disadvantages associated with this approach are:

- Additional cost of two OEOs
- Does not provide continuous monitoring of non-selected path
- Adds a single point of failure within a lightpath

One of the disadvantages of this approach, non-continuous monitoring of the path which is not currently selected, requires further explanation and is discussed in details below.

Modified 1+1 Architecture:

In the architectures discussed about, the PXC has visibility to the health of both working and protect paths, either through inter-operation with the WDM line systems or through internal monitoring, such as AIS tap behavior. However, in the case of OEO at the add/drop ports of PXC, the monitoring of the defects can be performed only on the selected path, and therefore requires a special behavior for 1+1 protection switching. The overall process of 1+1 network protection switching and its interaction with the internal equipment protection in this case is shown in FIG. 19.

At a high level, the details of 1+1 network and equipment protection in this case are:

- The selected path, W path in FIG. 19(a), is continuously monitored.
- The unselected path, P path in FIG. 19(a), is periodically monitored through a test access (TA) facility. This monitoring will most likely be scheduled with other monitoring functions such as idle link verification, auto discovery, user initiated requests,

etc., and therefore will delay the alarms from PXC on P path failure. However, there will be alarms from the OEOs on P-path. If sufficient test resources are available, the user may dedicate a test access resource for P-path monitoring.

- In case of a hard failure (Signal Fail) on the selected path, W path in FIG. 19(c), or a forced switch, the other path will be selected regardless of the health of that path. This is not an issue, as selecting non-functional path will not further deteriorate the quality of the selected signal.

- In case of a soft failure (Signal Degrade) on the selected path or a manual switch, a request will be sent to verify the quality of the unselected path. Only in case the quality of the unselected path is better than that of the selected path, the switch will be issued. It should be noted that protection switch in such cases are not time critical, so the on-demand verification of unselected path is not required to be fast.

- In the case of an internal failure within the selected core, as shown in FIG. 19(b), the internal LOL detection can be used to perform an equipment protection through 1x2 switch to select signal from the healthy core.

- In case both paths are bad, due to either a client failure or a double network failure, the path switching from say W to P and back to W will happen. In this case, after two successive network protection switches, it will be ascertained that failure on both paths exist. Hence either one of these can be selected, while the other will be periodically monitored, as in the normal mode of operation.

- In case of a double equipment failure on the selected path, the network protection switch can be utilized to select signal from the unselected path. This will allow protection against some additional equipment failure modes.

One benefit of the proposed 1+1 behavior is that it allows decoupling the network protection from the equipment protection. Hence in the case of an internal equipment failure, there is no need to select signal from a path with unknown quality. Instead the copy of the selected signal through the other core can be used to provide equipment protection. The major drawback of the proposed 1+1 behavior is that in the case of a hard failure on the selected path, a new cross-connect, which is probably not tested before, is required to be established in real-time.

Discussion of issues:

1) Failure forwarding: Failure forwarding from the location of failure is not necessary as AIS and IRS conditions can be detected at the PXC end node.

2) Alarms: Normal behavior of WDM line systems is maintained, so no unnecessary alarms are generated.

3) Provisioning: There is no need for any special provisioning of WDM line system equipment.

4) Failure isolation: Since there is no detection of a failure at an intermediate PXC node, failure isolation can be performed by carrying out link verification on all links of a known failed path. This approach is described in section 7.3.

5) Client failure impact: If the client generates an AIS/IRS, this will be detect by the add side OEO and the PXC will interpret this as a Client Signal Defect condition and protection switching will not occur for SPMesh connections. In the case of 1+1 connections, the local end-node can detect the presence of client signal defect, either through add OEO or through internal LOL. However, the remote end-node will go through double path switching as described above in the modified 1+1 behavior.

6.1.9 Type 9: OEO at Drop Port

This architecture is similar to Type 8 described in the section above, except that OEO is only provided at the drop port, as shown in FIG. 20. This approach will allow PXC to detect failure conditions within the network without a need for interworking with the line system. This is a lower cost solution as compared to Type 8, at the expense of losing most of the advantages associated with an OEO both in the add and drop direction. The

modified behavior of 1+1 protection switching described in the case of OEO at add/drop port, in section 4.1.8, also applies in this case.

Discussion of issues:

1) Failure forwarding: Failure forwarding from the location of failure is not necessary as AIS and IRS conditions can be detected at the PXC end node.

2) Alarms: Normal behavior of WDM line system is maintained, so no unnecessary alarms are generated.

3) Provisioning: There is no need fix any special provisioning of WDM line system equipment.

4) Failure isolation: Same as Type 8.

5) Client failure impact: If the client generates an AIS/IRS, this will not be detected by the PXC add port. Rather, an AIS will be detected by the drop OEO on the remote end node and will result in protection switching for both 1+1 and SPMesh connections. If the client output laser fails resulting in an LOL condition, the PXC add port will detect the LOL condition and protection switching can be prevented for SPMesh. However, in the case of 1+1, the remote end-node will perform protection switching even with client LOL.

6.1.10 Type 10: Receiver at Drop Port

This is another variation of architecture specified for Type 9. However, the difference in this case is that the OEO which was in series with the client equipment on the drop side is replaced by an OE (optical to electrical) receiver operating on a copy of the dropped signal to the client. The advantages associated with this approach are that it does not add a single point of failure within a lightpath and the receiver can be a very simple one. It,

however, requires some modifications to the architecture of PXC, shown in the form of a client port with 2x2 switch in FIG. 21.

The issues with this approach are identical to the ones described for Type 9 in section 6.1.9 above.

6.2 Digital Wrapper Network

In this subsection, we consider the LOS behaviors in a Digital Wrapper based WDM network. A reference lightpath (only one direction) is shown in FIG. 22. Note that OEO5 and OEO6 are On-ramp/Off-ramp terminals that convert data between SONET and Wrapper protocols. An On-ramp terminal takes SONET signal from a Client and encapsulates it in a Wrapper payload. The Off-ramp terminal removes the Wrapper and sends the SONET signal contained within to the Client. OEO1 through OEO4 are Wrapper terminals, i.e., wrapper (in) - wrapper (out). There are several advantages of this network architecture over a pure SONET network. Some of these are as follows:

1) Protocol independence: A digital wrapper network can carry client signals that conform to various protocols, such as SONET, SDH, Gigabit Ethernet, or Digital Wrapper itself. It is the responsibility of the On-ramp and Off-ramp terminals to interface with the Client. The WDM links will then carry Wrapper signals only.

2) Service Level Agreements: It permits various levels of tandem connection monitoring (TCM) capabilities to allow SLA verification at UNI-NNI, NNI-NNI, and NNI-UNI interfaces. In addition, it provides inter-vendor interface specification as a part of intra-domain interface, to allow interoperability between equipments from different vendors within the same service provider network.

3) Autodiscovery, Link verification: The digital wrapper overhead bytes may be used to facilitate autodiscovery and link verification between adjacent network elements. In a SONET network, it may be not be possible to modify the overhead bytes for this purpose.

4) Lightpath Trace monitoring: The overhead bytes may be used to carry a lightpath trace identifier end to end. It is inserted by OEO5 and monitored along all segments until it is removed by OEO6. This may not be possible in a SONET network, if it is not permissible/possible to modify unused overhead bytes.

5) Forward Error Correction (FEC): FEC is performed at each section individually. Hence FEC monitoring at each intermediate OEO leads to enhanced end-to-end BER performance and monitoring.

In the following we will discuss some of the possible opaque architectures within a wrapper network and explain the suitability of each with respect to failure forwarding, alarms, provisioning, failure isolation, and effects of client signal failure. In order to avoid excessive repetition, we will only identify the difference with respect to a corresponding behavior within SONET network.

Within a wrapper network, we will consider the following types of failure conditions:

1) IRS: This condition can arise from LOT, LOL, LOF, High BER, etc.

2) ODUk-AIS: Alarm Indication Signal generated at the ODUk layer within a digital wrapper network. This maintenance signal is sent downstream after a defect has been detected within a wrapper network.

3) G-AIS: An AIS signal received from outside the wrapper network, for example, a client or at the interface of SONET and wrapper network. For transport within wrapper network, the client AIS will be mapped within a good wrapper. This will be true for On-ramp cards, where failures on SONET side will not result in ODUk-AIS on the wrapper side.

6.2.1 Type 1: LOL Everywhere Behavior

By LOL everywhere behavior, we mean everywhere in the wrapper network that the PXC facing ports of the OEOs (drop side Tx) turn off their lasers on seeing any defect conditions (either IRS or ODUk-AIS). In the table below, the "Add OEO" refers to the OEO within wrapper network adjacent to the end-node where the lightpath is initiated, whereas the "Drop OEO" is the OEO (within wrapper network) adjacent to the end-node where the lightpath is being terminated. The East and West side OEOs surround a through node on a lightpath. In addition there are On-ramp and Off-ramp cards between client and PXC to perform the required adaptation function.

The behavior can be described as follows:

Interface Type	Input	Output
On-ramp SONET Rx -> Wrapper Tx	IRS AIS	G-AIS G-AIS
Add OEO/East side OEO (Drop side Rx -> Line side Tx)	IRS ODUk-AIS	ODUk-AIS ODUk-AIS
Regen (Line side Rx -> Line side Tx)	IRS ODUk-AIS	ODUk-AIS ODUk-AIS
Drop OEO/West side OEO (Line side Rx -> Drop side Tx)	IRS ODUk-AIS	LOL LOL
Off ramp Wrapper Rx -> SONET Tx	IRS ODUk-AIS	AIS AIS

An example of a Type 1 situation is shown in FIG. 23.

Discussion of Issues:

1) Failure forwarding: Same as in SONET case.

2) Alarms: Same as in SONET case.

3) Provisioning: Same as in SONET case, but with the difference that to suppress unnecessary alarms for idle link verification, we will require OPI support to utilize ODUk-AIS signaling within wrapper network.

4) Failure Isolation: The PXC -> PXC link that failed can be determined by identifying the first PXC port that sees LOL. Case analysis:

- Failure along PX1 -> PX2 link: PX2 and PX3 see LOL. PX1 does not see LOL.
- Failure along PX2 -> PX3 link: PX1 and PX2 do not see LOL. PX3 sees LOL.
- Failure along Client1 -> OEO5 link: OEO5 inserts AIS-L within a good wrapper. Therefore, PX1, PX2, and PX3 see no failure. The off-ramp OEO6 strips the wrapper and delivers AIS-L to Client2.
- Failure along OEO5 -> PX1 link: The failures resulting in absence of light at PX1 port will be detected by PX1 (these conditions will result in LOL at all of the subsequent PXCs). However, other failure modes which do not result in LOL at PX1 will be detected only by first OEO between PX1 and PX2 (OEO1 in this case), hence failure isolation will not be possible without OPI (same as in SONET case).
- Failure along Px3 -> OEO6 will be detected by OEO6, which will send AIS-L to Client2. However, the failure will not be detected within PXC network and will not result in protection switching (unless augmented by TNNI).
- Failure along OEO6 -> Client2 will be undetected.

Failure isolation can be accomplished by communicating and correlating with the upstream PXC node and/or downstream PXC node. Note that the isolation of failure between On-ramp OEO and PXC has the same issue as with Client AIS isolation in the SONET network.

5) Client failure impact: If Client1 generates AIS, or an IRS is detected at the OEO5, it will generate an AIS-L within a good wrapper towards the PXC network. This will

provide necessary isolation from defects occurring outside the PXC network. This is a significant advantage over the corresponding SONET solution.

In summary, this case is essentially the same as in the corresponding SONET case, with the main different being an isolation from client failures (this is true for all of the behaviors specified for wrapper network).

6.2.2 Type 2: LOS at end-nodes

The behavior can be described as follows:

Interface Type	Input	Output
On-ramp SONET Rx -> Wrapper Tx	IRS AIS	G-AIS G-AIS
Add OEO/East side OEO (Drop side Rx -> Line side Tx)	IRS ODUk-AIS	ODUk-AIS ODUk-AIS
Regen (Line side Rx -> Line side Tx)	IRS ODUk-AIS	ODUk-AIS ODUk-AIS
West side OEO (Line side Rx -> Drop side Tx)	IRS ODUk-AIS	ODUk-AIS ODUk-AIS
Drop OEO (Line side Rx -> Drop side Tx)	IRS ODUk-AIS	LOL LOL
Off-ramp Wrapper Rx -> SONET Tx	IRS ODUk-AIS	AIS AIS

An example of a Type 2 situation is shown in FIG. 24.

Discussion of Issues:

This behavior is very similar to the one described for the corresponding SONET solution. As discussed earlier, this solution will require OPI for dynamic provisioning of OEOs as

well as for failure isolation. However, in the case of wrapper network, faster and more reliable failure isolation is possible if the OEOs support Fault Type Fault Location (FTFL) capability available within ODUk overhead of digital wrapper.

6.2.3 Type 3: LOL at failure, AIS elsewhere

The behavior can be described as follows:

Interface Type	Input	Output
On-ramp	IRS	G-AIS
SONET Rx -> Wrapper Tx	AIS	G-AIS
Add OEO/East side OEO	IRS	ODUk-AIS
(Drop side Rx -> Line side Tx)	ODUk-AIS	ODUk-AIS
Regen	IRS	ODUk-AIS
(Line side Rx -> Line side Tx)	ODUk-AIS	ODUk-AIS
West side OEO	IRS (at failure)	LOL
(Line side Rx -> Drop side Tx)	ODUk-AIS (elsewhere)	ODUk-AIS
Off –ramp	IRS	AIS
Wrapper Rx -> SONET Tx	ODUk-AIS	AIS

An example of a Type 3 situation is shown in FIG. 25.

Discussion of Issues:

This behavior is similar to the one described for SONET network.

Recap from SONET behavior:

There are a few serious problems with this approach:

1) An LOS failure on the PXC -> TNE link (e.g., PX1 -> OEO1) will translate into an ODUk-AIS at every node downstream. In this case, no PXC node on the lightpath is aware of the failure.

2) An IRS condition before a WDM regeneration will be translated into an outgoing ODUk-AIS, so no PXC node on the lightpath will be aware of the failure (as PXC has no knowledge of the AIS condition without TNNI).

However, in the case of wrapper network, the issues stated above can be resolved if TNEs are capable of interworking with FTFL carried within ODUk overhead. Hence the desired behavior in this case can be modified to look at FTFL, when an ODUk-AIS is received on the line side, to selectively (based on the location of fault) turn off the laser on the Drop side Tx attached to the PXC port.

6.2.4 Type 4: LOL at failure, LOL at end node

The behavior can be described as follows:

Interface Type	Input	Output
On-ramp SONET Rx -> Wrapper Tx	IRS AIS	G-AIS G-AIS
Add OEO/East side OEO (Drop side Rx -> Line side Tx)	IRS ODUk-AIS	ODUk-AIS ODUk-AIS
Regen (Line side Rx -> Line side Tx)	IRS ODUk-AIS	ODUk-AIS ODUk-AIS
West side OEO (Line side Rx -> Drop side Tx)	IRS (at failure) ODUk-AIS (elsewhere)	LOL ODUk-AIS
Drop OEO (Line side Rx -> Drop side Tx)	IRS ODUk-AIS	LOL LOL
Off-ramp Wrapper Rx -> SONET Tx	IRS ODUk-AIS	AIS AIS

An example of a Type 4 situation is shown in FIG. 26.

The issues are the same as in the corresponding SONET case.

6.2.5 Type 5: TNNI everywhere

In this case, we assume that TNNI is enabled at all points along the lightpath. The benefits of this approach are very similar to the ones described for the SONET case. However, the TNNI protocol in this case may need to support different behaviors during idle and active states of the OCh links.

7 Failure Isolation

When a path fails, it is important to know which PXC-PXC link or links along the path have failed. Determining which PXC-PXC link(s) failed along the lightpath is called Failure Isolation. The failure of the link may be attributed to a failure along the WDM link between two PXC nodes, to a PXC nodal failure, or to other reasons. Once the failure is localized, the link state (topology) database can be updated so that new lightpaths will not use that link. In the case of G.ASTN enabled networks, it is important that failure isolation occurs fast. This is because an alternate route for a failed lightpath may be computed to route around the failure in a dynamic manner as opposed to a pre-provisioned protection route as in 1+1 protection switching.

As discussed earlier, when a failure is detected, the path should not be removed before the failure is isolated. One way to preserve the state of the affected path, during failure isolation, while not slowing down the protection switching, is to bridge the signal to both the working and the protection path. This is true for 1+1 connections, by default. However, for SPMesh connections, this requirement cannot be enforced for failures along the protection path. Hence, failure isolation in this case will have to make use of other techniques, such as failure isolation through idle link verification or other means.

In general, with TNNI, a sufficiently robust failure isolation within a PXC network can be achieved. .However, in the absence of TNNI, an out of band scheme, transported over XNNI links, is required. In the following, some failure isolation schemes with and without the support of TNNI are discussed.

7.1 Failure isolation without TNNI

There are several proposals to achieve failure isolation without receiving appropriate defect indications from the surrounding line systems. Since these schemes rely on LOL detection performed by PXC ports, appropriate provisioning of OEOs is required to turn off the laser on the drop side Tx. There are various approaches to enforce this OEO behavior and are discussed in section 6. Hence, for failure isolation purposes, we assume that an LOL condition at a given PXC has been detected through an appropriate OEO behavior. As described in section 6, in some of the LOL behaviors, some of the failure modes will not be detected. Similarly, there are a few situations in which detection of an LOL by PXC is not sufficient to isolate the faire. It is assumed that these are exceptions to the failure isolation without TNNI.

Some of these failure isolation approaches are discussed below.

7.1.1 Negotiation between adjacent PXCs

In this scheme, PX(n), after making a detection of failure condition (based on LOL), sends a request to the upstream node, PX(n-1), to verify if the failure has been detected by the upstream node. In case the response is negative, it can be assumed that the failure lies between the link PX(n-1) - PX(n). FIG. 27 depicts failure isolation through negotiation between adjacent PXCs.

Note: Even though we have described this scheme with the assumption that TNNI is not available, even when TNNI is available, failure isolation can be improved through negotiation between adjacent PXCs.

7.1.1.1 Issues

There are some performance related issues with negotiation between adjacent nodes. Since in this case the link failure between the upstream node and the given PXC can potentially affect XNNI signaling network, additional transmission delays can be encountered during convergence of signaling network. This implies that larger timers are required to accommodate delayed response from the upstream node.

7.1.2 OCH-FDI

In this scheme, an out of band message, denoted as OCH-FDI, is transmitted in the downstream direction from a PXC node which has successfully detected a failure in the network (based on LOL). This signal can be utilized by the downstream node to see if the locally detected failure is a result of an upstream condition. To enhance the accuracy of failure isolation, it may be required to send the OCH-FDI at regular intervals until the failure condition disappears. FIG. 28 depicts failure isolation through out-of-band AIS signaling.

Since this scheme emulates the AIS behavior supported through an in-band signaling scheme within an optical network, it has an additional advantage of being compatible with the telecom grade alarm suppression and forwarding behavior of line systems.

7.1.2.1 Issues

Even through this scheme overcomes the issue of negotiation between adjacent PXCs and longer response timers, it still suffers from reliability of failure isolation of the assumed

OEO behavior. In other words, the failure indication forwarding enhancement does not eliminate the possible problems with the failure isolation through LOL.

Even though AIS indications are very effective in failure isolation with in-band signaling available in SONET and digital wrapper networks, the same level of robustness is not possible with out-of-band AIS signaling. For example, to overcome race conditions between signaling delays of out-of-band OCH FDI and a local fault indication, which can be fast due to its coupling with optical transmission, larger integration timers are required.

7.2 Failure isolation with TNNI

Failure isolation can be easily performed in case the defect indications are available through TNNI protocol between PXC and the surrounding line systems. This approach will require FDIs at all of the nodes along a given lightpath and BDI in addition to FDI at end-nodes (to isolate client signal defects without an OEO between client and PXC, BDI will be required).

Since for 1+1 and SPMesh connections, the defect indications are only required at end-nodes of a lightpath, the end-nodes should be listening to these defect indications as soon as they are reported from surrounding OEOs. However, once the failure has been detected by the end- nodes and protection switching is being performed, appropriate defect indications can be collected from nodes along the affected path to isolate the failure to a particular link and/or node. In this case, the first node which has seen a defect indication other than AIS will be considered as the downstream edge of the failed link.

On the other hand, for ASON connections, where a redial of the affected path has to be performed, the failure isolation is in series with the protection switching event, and therefore will require continuous monitoring of defect indications all along the lightpath.

7.3 Failure isolation through Idle link verification

This approach will be required to isolate failures if the defect reporting is achieved through OEOs or receivers integrated on the add/drop ports of PXC (Type 7 -10, sections 6.1.7 - 6.1.10). In this case, once the defect has been reported, a request can be sent to all of the nodes along the given path to perform link verification. Based on the response of link verification, failure can be isolated to a particular link.

It should be noted that ASTN redial efficiency is generally maximized with rapid failure isolation. This means that ASTN should not tear down the path until failure isolation is completed.

It should be noted that failure isolation will generally require BDI (in band or out of band).

It should be noted that the terms such as "router" and "switch" are used herein to describe communication devices that may be used in a communication system, and should not be construed to limit the present invention to any particular communication device type. Thus, a communication device may include, without limitation, a bridge, router, bridge-router (brouter), switch, node, or other communication device.

It should also be noted that the term "message" is used herein to describe a communication message that may be used by a communication device (*e.g.*, created, transmitted, received, stored, or processed by the communication device) or conveyed by a communication medium, and should not be construed to limit the present invention to any particular communication message type, communication message format, or communication protocol. Thus, a communication message may include, without limitation, a frame, packet, datagram, user datagram, cell, or other type of communication message.

It should be noted that certain of the described link discovery, verification, and failure isolation functions can be performed or controlled through computer program logic for

use with a processor (*e.g.*, a microprocessor, microcontroller, digital signal processor, or general purpose computer), programmable logic for use with a programmable logic device (*e.g.*, a Field Programmable Gate Array (FPGA) or other PLD), discrete components, integrated circuitry (*e.g.*, an Application Specific Integrated Circuit (ASIC)), or any other means including any combination thereof.

Computer program logic implementing all or part of the functionality previously described herein may be embodied in various forms, including, but in no way limited to, a source code form, a computer executable form, and various intermediate forms (*e.g.*, forms generated by an assembler, compiler, linker, or locator). Source code may include a series of computer program instructions implemented in any of various programming languages (e.g., an object code, an assembly language, or a high-level language such as Fortran, C, C++, JAVA, or HTML) for use with various operating systems or operating environments. The source code may define and use various data structures and communication messages. The source code may be in a computer executable form (*e.g.*, via an interpreter), or the source code may be converted (*e.g.*, via a translator, assembler, or compiler) into a computer executable form.

The computer program may be fixed in any form (*e.g.*, source code form, computer executable form, or an intermediate form) either permanently or transitorily in a tangible storage medium, such as a semiconductor memory device (*e.g.*, a RAM, ROM, PROM, EEPROM, or Flash-Programmable RAM), a magnetic memory device (*e.g.*, a diskette or fixed disk), an optical memory device (*e.g.*, a CD-ROM), a PC card (*e.g.*, PCMCIA card), or other memory device. The computer program may be fixed in any form in a signal that is transmittable to a computer using any of various communication technologies, including, but in no way limited to, analog technologies, digital technologies, optical technologies, wireless technologies (*e.g.*, Bluetooth), networking technologies, and internetworking technologies. The computer program may be distributed in any form as a removable storage medium with accompanying printed or electronic documentation (*e.g.*, shrink wrapped software), preloaded with a computer

system (*e.g.*, on system ROM or fixed disk), or distributed from a server or electronic bulletin board over the communication system (*e.g.*, the Internet or World Wide Web).

Hardware logic (including programmable logic for use with a programmable logic device) implementing all or part of the functionality previously described herein may be designed using traditional manual methods, or may be designed, captured, simulated, or documented electronically using various tools, such as Computer Aided Design (CAD), a hardware description language (*e.g.*, VHDL or AHDL), or a PLD programming language (e.g., PALASM, ABEL, or CUPL).

Programmable logic may be fixed either permanently or transitorily in a tangible storage medium, such as a semiconductor memory device (*e.g.*, a RAM, ROM, PROM, EEPROM, or Flash-Programmable RAM), a magnetic memory device (*e.g.*, a diskette or fixed disk), an optical memory device (*e.g.*, a CD-ROM), or other memory device. The programmable logic may be fixed in a signal that is transmittable to a computer using any of various communication technologies, including, but in no way limited to, analog technologies, digital technologies, optical technologies, wireless technologies (*e.g.*, Bluetooth), networking technologies, and internetworking technologies. The programmable logic may be distributed as a removable storage medium with accompanying printed or electronic documentation (*e.g.*, shrink wrapped software), preloaded with a computer system (*e.g.*, on system ROM or fixed disk), or distributed from a server or electronic bulletin board over the communication system (*e.g.*, the Internet or World Wide Web).

The present invention may be embodied in other specific forms without departing from the true scope of the invention. The described embodiments are to be considered in all respects only as illustrative and not restrictive.

What is claimed is:

1. A method for determining optical communication links between two adjacent network elements in an optical communication system, each network element comprising a number of transmit interfaces and a number of receive interfaces, the method comprising:

causing a first one of the network elements to generate an optical signal over one of its transmit interfaces;

causing the optical signal to be received at one of:

a receive interface of a second one of the network elements; and

a receive interface of said first one of the network elements; and

detecting an optical communication link between the transmit interface of the first network element and the receive interface of the second network element and a corresponding optical communication link between the transmit interface of the second network element and the receive interface of the first network element based upon at least the received optical signal.

2. The method of claim 1, wherein the optical signal comprises at least one of:

a sustained light on condition;

a sustained light off condition;

a plurality of successive light on and light off conditions that vary according to a predetermined pattern;

an optical signal that is modulated according to a predetermined data sequence;

an optical signal that is modulated according to a pilot tone;

an optical signal at an unused wavelength;

amplified spontaneous emission noise;

an alarm signal; and

an optical signal that produces an invalid received signal at the receive interface.

3. The method of claim 1, wherein causing the first network element to generate the optical signal over one of its transmit interfaces comprises:

instructing the first network element to generate the optical signal by the second network element using a predetermined protocol.

4. The method of claim 1, wherein causing the first network element to generate the optical signal over one of its transmit interfaces comprises:

allocating a test transmitter; and

crossconnecting the test transmitter to the transmit interface of the first network element.

5. The method of claim 1, wherein causing the optical signal to be received at the receive interface of the first network element comprises:

receiving the optical signal at a receive interface of the second network element; and

causing the optical signal to be looped back from the receive interface of the second network element to a transmit interface of the second network element.

6. The method of claim 1, wherein causing the optical signal to be received at the receive interface of the first network element comprises:

allocating a test receiver; and

crossconnecting the test receiver to the receive interface of the first network element.

7. The method of claim 1, wherein the optical signal comprises an identity pattern that uniquely identifies the transmit port of the first network element, and wherein detecting the optical communication link between the transmit interface of the first network element and the receive interface of the network element comprises:

recovering the identity pattern from the received optical signal; and

detecting the optical communication link based upon the recovered identity pattern.

8. The method of claim 7, wherein detecting the optical communication link based upon the recovered identity pattern comprises:

obtaining a table that maps each of a number of identity patterns to a corresponding transmit interface of the first network element; and

determining from the table that the recovered identity pattern maps to the transmit interface of the first network element.

9. The method of claim 8, wherein the table further maps each identity pattern and corresponding transmit interface of the first network element to a corresponding receive interface of the first network element, and wherein detecting the optical communication link between the transmit interface of the second network element and the receive interface of the first network element comprises:

inferring the optical communication link from the mapping in the table.

10. A method for failure isolation in an optical communication system, the method comprising:

establishing a lightpath from a first end-node to a second end-node through a number of photonic cross-connect devices and associated optical devices;

generating defect indications by a number of devices in response to a failure in the optical communication system;

receiving the defect indications by at least one of the photonic cross-connect devices; and

isolating the failure based upon the defect indications received by the photonic cross-connect devices.

11. The method of claim 10, further comprising:

updating a link state database to indicate the status of each of a number of links associated with the lightpath.

12. The method of claim 10, wherein generating defect indications by a number of devices in response to a failure in the optical communication system comprises at least one of:

turning off a laser;

producing an invalid received signal condition;

producing a loss of light condition;

producing a loss of signal condition;

producing a loss of frame condition;

producing a loss of transitions condition; and

producing an alarm indication signal.

13. The method of claim 10, further comprising:

passing a defect indication from a photonic cross-connect device to an end-node through a device adjacent to the end-node or through an out-of-band signaling mechanism.

14. The method of claim 10, wherein isolating the failure based upon the defect indications received by the photonic cross-connect devices comprises:

identifying the first photonic cross-connect device along the lightpath to receive a defect indication;

determining a port of said first photonic cross-connect device on which the defect indication was detected; and

isolating the failure based upon said port.

15. The method of claim 10, wherein isolating the failure based upon the defect indications received by the photonic cross-connect devices comprises:

carrying out a link verification process on all links associated with the failed lightpath to determine a status for each link; and

isolating the failure based upon the status for each link as determined by the link verification process.

16. The method of claim 10, wherein the optical communication system comprises a wrapper-based wavelength division multiplexed network supporting fault type fault location with a wrapper overhead, and wherein generating defect indications by a number of devices in response to a failure in the optical communication system comprises:

generating the defect indications based upon fault type fault location information in the wrapper overhead.

17. An optical communication system comprising:

a plurality of interconnected network elements, each network element comprising a number of transmit interfaces and a number of receive interfaces;

means for automatically discovering optical communication links between adjacent network elements; and

means for verifying the optical communication links.

18. The optical communication system of claim 17, wherein the means for automatically discovering optical communication links between adjacent network elements comprises:

means for causing a first one of the network elements to generate an optical signal over one of its transmit interfaces;

means for causing the optical signal to be received at one of:

a receive interface of a second one of the network elements; and

a receive interface of said first one of the network elements; and

means for detecting an optical communication link between the transmit interface of the first network element and the receive interface of the second network element and a corresponding optical communication link between the transmit interface of the second network element and the receive interface of the first network element based upon at least the received optical signal.

19. The optical communication system of claim 17, further comprising:

means for isolating a failure in the optical communication system.

20. The optical communication system of claim 19, wherein the means for isolating a failure in the optical communication system comprises:

means for generating defect indications by a number of network elements in response to the failure;

means for receiving the defect indications by at least one photonic cross-connect device among the plurality of interconnected network elements; and

means for isolating the failure based upon the defect indications received by the at least one photonic cross-connect device.

ABSTRACT OF THE DISCLOSURE

Automatic discovery and verification of optical communication links as well as isolation of link failures in an optical communication system.

10861107

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20050330

DATE : March 30, 2005

TO SPE OF : ART UNIT 1724

SUBJECT : Request for Certificate of Correction on Patent No.: 6767455

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.

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 proposed change to Fig. 2 is NOT APPROVED insofar as it is not merely clerical or typographical (see MPEP 1481 and statutes and rules cited therein) and would affect the scope or meaning of the term "at least one filtrate conduit" recited in at least one claim, especially in light of the incorporation by reference of Stobbe '833 and Goldsmith '831 disclosures showing intermonolith filtrate conduits.

DUANE SMITH
PRIMARY EXAMINER

SPE DUANE SMITH (1724)

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Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS, TN 38132

Mail Date: 04/21/2010

Applicant	: Kevin T. Foley	: DECISION ON REQUEST FOR
Patent Number	: 7625378	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/261,120	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/30/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **895** 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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In re Application of :
Roberts et al. :
Application No. 10/261,128 :
Filed: October 1, 2002 :
Patent No.: 6,948,310 :
Issued: January 11, 2005 :
Title of Invention: :
USE OF A VARIABLE VALVE ACTUATION :
SYSTEM TO CONTROL THE EXHAUST GAS :
TEMPERATURE AND SPACE VELOCITY OF :
AFTERTREATMENT SYSTEM FEEDGAS :

This is a decision on the Petition Requesting Correction to Letters Patent, filed November 16, 2005. The petition is properly treated as a request under 37 CFR 3.81(b)[1].

The Petition is **granted**.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Derek L. Woods
Attorney
Office of Petitions

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004.

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JUN 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Dieter Baumann :
Application No. 10/261,134 : NOTICE
Filed: September 30, 2002 :
Attorney Docket No. FRM-03401

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 3725.

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

10/261138

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-26-05

TO SPE OF : ART UNIT 3752

SUBJECT : Request for Certificate of Correction on Patent No.: 6863228

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

Please complete this form and return with file, within 7 days to:

Certificates of Correction Branch - PK 3-922

Palm location **7580** - Tel. No. 305-8309

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

Check Claims

Thank You For Your Assistance

Certificates of Correction Branch

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

Note your decision on the appropriate box.

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

Comments:

Approved

SPE

3752

Art Unit

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Paper No. 7

Michael D. Smith
Delphi Technologies, Inc.
Legal Staff – M/C 480-410-202
Post Office Box 5052
Troy, MI 48007-5052

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OFFICE OF PETITIONS

In re Application of :
Saiman Lun et al. :
Application No. 10/261,147 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. DP-306737 7500/196 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 23, 2004, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 14, 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 June 15, 2003.

The application file is being forwarded to Technology Center AU 3683 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:11302005

DATE : November 30, 2005

TO SPE OF : ART UNIT 2814

SUBJECT : Request for Certificate of Correction on Patent No.: 6,940,086

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

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

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

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

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

☒ **Approved** — All changes apply.

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

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

Comments:

SPE: Wael M. Fahmy **Art Unit** 2814

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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Terrance A. Meador
INCAPLAW
1050 Rosecrans Street, Suite K
San Diego CA 92106

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FEB 14 2006

OFFICE OF PETITIONS

DECISION ON PETITION

In re Application of
Bieberich et al.
Application No. 10/261,160
Filed: September 27, 2002
Attorney Docket No. AUGA31000001

This is a decision on the petition under 37 CFR 1.181, filed May 11, 2005, to withdraw the holding of abandonment for the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience to petitioner.

This application was held abandoned for failure to respond timely to the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed on November 4, 2004, which set a three-month statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned on February 5, 2005. A Notice of Abandonment was mailed on March 14, 2005.

In the petition, petitioner asserted that the practitioner did not receive the Notice of Allowance and Fee(s) Due and the Notice of Allowability because the USPTO did not entered an earlier filed change of correspondence address. The practitioner stated that there was no record in his file or docket record for this application that the Notices were forwarded by Gray Cary Ware & Friedenrich to the practitioner. The practitioner stated that a copy of the docket record for this application accompanied the petition; however, the Office did not receive any docket record. The practitioner averred that the Office erroneously mailed the Notices to an incorrect correspondence address. Accordingly, petitioner requested that the Office withdraw the holding of abandonment, mail the Notices to the new correspondence address, and restart the period for reply.

A review of the record indicates that petitioner filed a change of correspondence address with the USPTO on September 25, 2003. Unfortunately, the USPTO did not enter the change of correspondence into the record. Consequently, the USPTO mailed the Notice of Allowance and Fee(s) Due and the Notice of Allowability to an incorrect correspondence address.

In view of the above, the petition to withdraw the holding of abandonment is **granted**. The Notice of Abandonment was mailed in error and is hereby withdrawn. The application is restored to pending status. As the practitioner did not receive the original Notices of November 4, 2004, **Technology Center Art Unit 3744 shall remail the Notice of Allowance and Fee(s) Due and the Notice of Allowability and restart the period for response.**

The Office has entered the change of correspondence address and made it of record.

This matter is being forwarded to Technology Center Art Unit 3744 for further action consistent with this decision.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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OFFICE OF PETITIONS

PILLSBURY WINTHROP LLP
INTELLECTUAL PROPERTY GROUP
SUITE 200
11682 EL CAMINO REAL
SAN DIEGO, CA 92130-2092

In re Application of :
Pamela M. Kapustay, et al. :
Application No. 10/261,164 : DECISION ON PETITION
Filed: September 27, 2002 : UNDER 37 CFR 1.137(b)
Atty Docket No. 046007-0272304 :

This is a decision in response to 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**.

The instant nonprovisional application became the subject of a counterpart application filed in an eighteen-month country on September 25, 2003. A review of the file record discloses that a Request to Rescind Previous Nonpublication Request, including a notice of foreign filing, was received in the USPTO on September 29, 2003. Since a proper notice of rescission under 35 U.S.C. 122(b)(2)(B)(ii) and notification of foreign filing under 35 U.S.C. 122(b)(2)(B)(iii) was received within forty-five days after the date the counterpart application was filed, the application is not abandoned. As such, the filing of a petition to revive is unnecessary and is dismissed as involving a moot issue. *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/.

Under the circumstances stated above, no petition fee has been charged to counsel's deposit account.

A Notice Regarding Rescission of Nonpublication Request indicating the projected date of publication of April 1, 2004 accompanies this decision.

This application is being referred to Technology Center AU 1648 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-9220.

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

Attachment: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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Pillsbury Winthrop LLP
Intellectual Property Group
Suite 200
11682 El Camino Real
San Diego CA 92130-2092

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FEB 28 2007

OFFICE OF PETITIONS

In re Application of :
Pamela M. KAPUSTAY et al. :
Patent No. 6,919,077 : ON PETITION
Issue Date: July 19, 2005 :
Application No. 10/261,164 :
Filed: September 27, 2002 :
Attorney Docket No. 046007-0272304 :

This is in response to the petition under 37 CFR 1.182, filed July 21, 2006, which is being treated as a petition under 37 CFR 1.59(b) to expunge the Revocation and Power of Attorney Request submitted on May 23, 2005.

The petition is **GRANTED.**

Petitioner requests that the Revocation and Power of Attorney Request submitted on May 23, 2005 be expunged as it has been submitted a third party, Symbion Research International (Symbion), who is neither affiliated with the inventors or Petitioner.

A thorough review of USPTO records indicates that the there is no chain of title from the inventors to Symbion. Symbion has submitted a September 17, 2004 default judgment of the Superior Court of California in and for the County of Ventura, in the matter of Symbion Research International, Inc. v. Amerimmune, Inc. Conspicuously absent from the court order is any mention of this patent or application, so whatever property rights were conveyed by the court to Symbion, there is no evidence that Symbion was awarded or has otherwise obtained the right, title, and interest to this patent. Symbion has provided no further evidence that they have obtained the right, title, and interest to this patent. The records of the USPTO indicate that the inventors have assigned their rights to AIDS Research, LLC.

The ownership of the patent (or the application for the patent) initially vests in the named inventors of the invention of the patent. See Beech Aircraft Corp. v. EDO Corp., 990 F.2d 1237, 1248, 26 USPQ2d 1572, 1582 (Fed. Cir. 1993). The patent (or patent application) is then assignable by an instrument in writing, and the assignment of the patent, or patent application,

transfers to the assignee(s) an alienable (transferable) ownership interest in the patent or application. 35 U.S.C. 261. Therefore, it follows that patents and patent applications, not inventive concepts, are assigned.

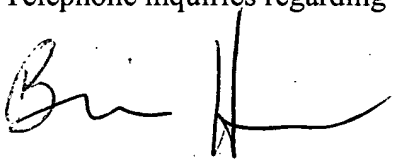
In view of the above, no further action will be taken on the Revocation and Power of Attorney submitted by Symbion. In order to avoid any future confusion the document will be closed in the Image File Wrapper, which is the same as expungement of the document.

The Power of Attorney remains with John Wetherell at the above correspondence address.

Petitioner has submitted a petition fee of $130 under 37 CFR 1.17(h);however, the petition fee due under 37 CFR 1.17(g) is $200. Accordingly, an additional $70 will be charge to petitioner's Deposit Account No. 03-3975.

Symbion Research International, Inc., Peggy Pence President and CEO of Symbion, and their attorney Michael F. Campillo (Reg. # 44,583) are cautioned not to file any further Request for Revocation and Power of Attorney, and Change of Correspondence Address in this patent until such time as they can provide a clear and proper chain of title from the inventors to Symbion.

Telephone inquiries regarding this decision should be directed to David Bucci at (571) 272-7099.



Brian Hearn
Petitions Examiner
Office of Petitions

Cc: Michael F. Campillo
101 N. 1st Ave. STE. 1875
Phoenix, Az 85003

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MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

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DEC 21 2006

OFFICE OF PETITIONS

In re Application of :
Zeng et al. :
Application No. 10/261184 :
Filing or 371(c) Date: 09/30/2002 :
Attorney Docket Number: 8498-064-999 : ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment Under 37 C.F.R. § 1.181(a)", filed July 18, 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 Notice of Allowance and Issue Fee Due, mailed May 18, 2004. The Notice set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned on August 19, 2004. A Notice of Abandonment was mailed October 8, 2004.

Applicant files the instant petition and asserts that a timely reply to the Notice, to wit: the issue fee, was timely filed on August 18, 2004. In support of this assertion, Applicant files a copy of a return-receipt postcard acknowledging receipt by this Office of the Issue Fee Transmittal Form on August 18, 2004. Applicant also provides a copy of an Express Mail Mailing Label, No. EU618746465US, bearing a "Date-In" of August 18, 2004, and addressed to this Office. The same Express Mail No. appears on the copy of the return-receipt postcard filed with the petition.

In view of the foregoing, the holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to the Publishing Division for processing into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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Paper No. 5

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

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AUG 13 2003

OFFICE OF PETITIONS

In re Application of
Samulski, Xiao & Snyder
Application No. 10/261,188
Filed: September 30, 2002
Attorney Docket No. 8141-160-999
For: METHODS FOR INCREASING THE EFFICIENCY OF RECOMBINANT AAV PRODUCT

LETTER

This letter is in response to the petition under 37 CFR 1.47(a) filed on May 16, 2003.

The petition is **GRANTED**.

In accordance with 37 CFR 1.63(d), petitioner has submitted a copy of the executed oath or declaration filed in Application No. 09/060,102, of which the instant filing is a continuation application. Furthermore, petitioner has submitted a copy of the decision, mailed on January 16, 2001, granting a petition to accord § 1.47 status to the prior 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. No fee has been or will be charged.

The Office will not forward notice of this application's filing to the non-signing inventor because notice regarding the filing of the prior application has already been sent to the non-signing inventor.

Regarding finances, the Office erroneously charged the large entity late declaration surcharge on August 4, 2003, despite petitioner's assertion of small entity status filed in the instant petition. Petitioner will be credited $65.00, which is the difference between the $130 large entity surcharge and the $65 small entity surcharge.

After this decision is mailed, the application will be forwarded to Technology Center 1600 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-67212.

E. Shirene Willis

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

#4

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MAY 16 2003
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Paper No. 11

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JAN 16 2001

OFFICE OF PETITIONS
A/C PATENTS

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

In re Application of
Samulski, Xiao, and Snyder
Application No. 09/060,102
Filed: 14 April, 1998
Title: Method for Increasing the Efficiency of Recombinant AAV Product

8141-155-99

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a)[1] filed on 5 October, 2000.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the supplemental declaration of Jacqueline Benn establishes that a copy of the application was sent to the non-signing inventor's work address, and, that during a teleconference, the non-signing inventor orally acknowledged receipt of the application but refused to sign the Declaration.

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

As provided in Rule 1.47(a), 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.

---

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

After this decision is mailed, the application will be forwarded to Technology Center 1600 for further processing.

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

for

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

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DLA PIPER RUDNICK GRAY CARY US LLP
153 Townsend Street
Suite 800
San Francisco, CA 94107-1907

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APR 24 2007

OFFICE OF PETITIONS

In re Application of:
Richard Jude SAMULSKI, et al.
Application No.: 10/261,188
Filed: September 30, 2002
Atty's Docket No.: 8141-160-999

DECISION ON PETITION UNDER
37 CFR 1.137(b)

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed December 08, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice Of Allowance mailed July 31, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on October 31, 2006.

On December 08, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of payment of the issue and publication fees. Accordingly, the issue and publication fee payments are accepted as having been unintentionally delayed.

The application is being referred to the Office Of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

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JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

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JAN 0 3 2008

OFFICE OF PETITIONS

In re Application of :
Xiaolan Zeng, et al. :
Application No. 10/261,196 : DECISION ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. 8498-063-999 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 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 on or before May 29, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed February 26, 2007. Accordingly, the date of abandonment of this application is May 30, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400 and the publication fee of $300, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the

petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: FRANCIS E. MORRIS, ESQ.
MORGAN, LEWIS & BOCKIUS, LLP
111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

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HERMAN H BAINS
6101 TRACY AVE
MINNEAPOLIS MN 55436

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APR 26 2005

OFFICE OF PETITIONS

In re Application of
John T. Stodolka :
Application No. 10/261,204 : DECISION ON
Filed: October 1, 2002 : PETITION
Attorney Docket No. 20029PC :

This is in response to the petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed September 14, 2004.

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

The above-identified application became abandoned for failure to timely pay the issue fee and publication fees as required by the Notice of Allowance mailed on January 9, 2004. This notice set a statutory period for reply of three months. No issue fee and publication fee having been received, the above-identified application became abandoned on April 10, 2004. A Notice of Abandonment was mailed on May 26, 2004.

With the instant petition, petitioner paid the petition fee together with the publication and issue fees; and made the proper statement of unintentional delay.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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)
6674379	2004-01-06	10261223	2002-09-30	US020353US

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	/Aaron M Waxler/	Date (YYYY-MM-DD)	2008-12-16
Name	Aaron Waxler	Registration Number	48027

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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

In re Patent No. 6674379
Issue Date: January 6,2004
Application No. 10261223
Filed: September 30,2002
Attorney Docket No. US020353

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

This is a decision on the electronic petition, filed December 17,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 17,2008 . 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
WASHINGTON, D.C. 20231
www.uspto.gov
DW 02-03

Paper No. 4

SCOTT M. GARRETT
MOTOROLA, INC.
LAW DEPARTMENT
8000 WEST SUNRISE BOULEVARD
FORT LAUDERDALE FL 33322

COPY MAILED

FEB 13 2003

OFFICE OF PETITIONS

In re Application of :
Khawand et al. :
Application No. 10/261,260 : ON PETITION
Filed: 30 September, 2002 :
Attorney Docket No. CM03776J :

This is a decision on the paper styled as a petition under 37 CFR 1.182, filed 26 November, 2002, to correct the title of the invention.

The petition is **GRANTED**.

As the correction was necessitated by Office error, no fee is due. The $130.00 fee will be refunded to counsel's deposit account, No. 50-0757.

Petitioner is advised that in future filings, a mistake in the invention title due to Office error may be corrected by a Request for Corrected Filing Receipt.

Office PALM records have been corrected to reflect the correct invention title. A corrected Filing Receipt is attached.

The application file is being forwarded to Technology Center 2600 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

cc: Corrected Filing Receipt

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United States Patent and Trademark Office
P.O. Box 1450
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LAW DEPARTMENT
8000 WEST SUNRISE BOULEVARD
FORT LAUDERDALE, FL 33322

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JUL 19 2005

OFFICE OF PETITIONS

In re Application of :
Khawand, et al. :
Application No. 10/261,260 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. CM03776J :

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 **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed July 21, 2004. Accordingly, this application became abandoned on October 22, 2004. A Notice of Abandonment was mailed on May 13, 2005.

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

The file is being forwarded to Technology Center 2600.

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

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

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

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AUG 0 1 2007

OFFICE OF PETITIONS

In re Application of :
John Bruce Harlow, et al. :
Application No. 10/261,297 : DECISION ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. 2001-0476 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 2, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 6, 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 October 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 an amendment, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the

petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 2614 for appropriate action by the Examiner in the normal course of business on the reply received April 2, 2007.

Irvin Dingle
Petitions Examiner
Office of Petitions

Cc: ROBERT S. M. GORMAN
GORMAN LAW OFFICES
305 MADISON AVENUE
SUITE 449
NEW YORK, NY 10165

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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SEP 25 2006
OFFICE OF PETITIONS

In re Application of :
Dave, et al. :
Application No. 10/261,324 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. J&J-2161 :
For: EXOTHERMIC ARTICLE AND THE USE THEREOF

This is a decision on the petition under 37 CFR 1.137(b), filed on May 15, 2006 (certificate of mailing date May 10, 2006) to revive the above-identified application.

This application became abandoned for failure to properly respond to the final Office action mailed October 7, 2005, which set an extendable three month period for reply. Applicants submitted a three month extension of time and an amendment after final on April 7, 2006. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the May 3, 2006 Advisory action. Accordingly, this application became abandoned on April 8, 2006. A Notice of Abandonment was mailed on May 3, 2006.

Applicants have submitted a RCE and required fee and amendment in reply to the October 7, 2005 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the October 7, 2005 final Office action, and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 1751 for consideration of the RCE filed on May 15, 2006 (certificate of mailing date May 10, 2006).

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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KING & SPALDING LLP
1180 PEACHTREE STREET
ATLANTA, GA 30309-3521

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APR 25 2007

OFFICE OF PETITIONS

In re Application of :
Jean-Pierre Sommadossi, et al. :
Application No. 10/261,327 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. IDX1014US :

This is a decision in response to the petition, filed October 10, 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 a failure to reply in a timely manner to a Office action mailed June 15, 2005. A Notice of Abandonment was mailed September 22, 2006. On October 10, 2006, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) the requisite statement of unintentional delay.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, the $2.160 extension fees are being credited to counsel's deposit account.

The application is being referred to Technology Center AU 1623 for consideration of the amendment filed October 10, 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

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Paper No. 8

BAYER CHEMICALS CORPORATION
100 BAYER ROAD
PITTSBURGH, PA 15205

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OCT 2 8 2003

OFFICE OF PETITIONS

In re Application of :
Klohr, et al. :
Application No. 10/261,332 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. Mo-5461N/WW-5489 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 21, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Office action mailed March 21, 2003. Accordingly, this application became abandoned on June 22, 2003. A Notice of Abandonment was mailed on October 21, 2003.

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, the extension of time submitted with the petition on October 21, 2003 was subsequent to the maximum period obtainable for reply. As such, the extension of time is not necessary and has not been charged.

The file is being forwarded to Technology Center 1600.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 07/27/2010

Applicant	: Alan G. Smith	: DECISION ON REQUEST FOR
Patent Number	: 7653632	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/261,356	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/01/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2046** 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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TOWNSEND AND TOWNSEND
AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAY 09 2007

OFFICE OF PETITIONS

In re Application of :
Vivekanantan S. IYER, et al :
Application No. 10/261,366 : DECISION ON PETITION
Filed: September 30, 2002 : TO WITHDRAW
Attorney Docket No. IB-1719 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 15, 2006.

The request is **DISMISSED** as moot.

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

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

There is an outstanding Office action mailed February 23, 2007 that requires a reply by the applicant.

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

April Wise
Petitions Examiner
Office of Petitions

cc: TIMOTHY J. LITHGOW, MD
ERNEST ORLANDO
LAWRENCE BERKELEY
NATIONAL LABORATORY
ONE CYCLOTRON ROAD,
MS 50A-4119
BERKELEY, CA 94720

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Paper No. 7

TIMOTHY M HONEYCUTT ATTORNEY AT LAW
P O BOX 1577
CYPRESS TX 77410

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JUL 1 5 2003

OFFICE OF PETITIONS

In re Application of :
John Loo :
Application No. 10/261,368 : DECISION ON PETITION
Filed: September 30, 2002 : UNDER 37 C.F.R. §1.137(f)
Attorney Docket No. SASL:010\HON :
Title: SEMICONDUCTOR WORKPIECE :
APPARATUS :

This is a decision on the petition filed on June 10, 2003, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

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

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in either a foreign or an international application on December 18, 2002. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

On June 10, 2003, a Notice of Rescission of Nonpublication Request was filed with the Office, along with the instant petition.

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

37 C.F.R. §1.137(f) requires a statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(f), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(f) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

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

Petitioner has submitted the notification of either a foreign or an international filing, paid the petition fee, and has made a statement which is being construed as the proper statement of unintentional delay.

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

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i), filed with the original application papers, has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of April 1, 2004 accompanies this decision on petition.

After this decision is mailed, the application will be forwarded to Technology Center 2800 for further processing.

Telephone inquiries concerning *this decision* should be directed to Attorney Paul Shanoski at (703) 305-0011.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

3/17/04

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

Timothy M. Honeycutt
Attorney at Law
P.O. Box 1577
Cypress, Texas 77410-1577

MAILED

MAR 17 2004

TECHNOLOGY CENTER 2800
SPECIAL PROGRAM CENTER

In re Application of:
John Loo
Serial No.: 10/261,368
Filed: September 30, 2002
For: SEMICONDUCTOR WORKPIECE APPARATUS

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. 1.36, filed March 11, 2004, via facsimile transmission, which is a resubmission of an earlier request filed January 22, 2004, also via facsimile transmission.

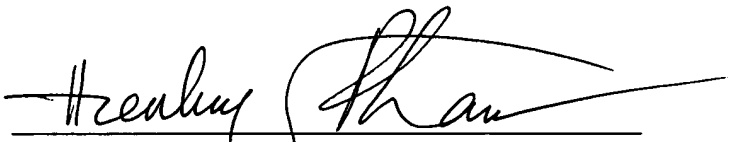
The request is APPROVED.

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 Timothy M. Honeycutt, the sole attorney of record.

Timothy M. Honeycutt, the sole attorney of record, signed the request.

There is no attorney of record at this time.

All future communications from the Office will be directed to the new address associated with Customer No. 37540 which appears below until otherwise notified by applicant.



Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: SAMSUNG AUSTIN SEMICONDUCTOR, L.P.
Attn: Teresa J. Burroff
12100 Samsung Blvd.
Austin, TX 78754

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APPLIED MATERIALS, INC.
LEGAL AFFAIRA DEPT.
P.O. BOX 450A
SANTA CLARA, CA 95054

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SEP 17 2008

In re Application of	:	
Jennings et al.	:	
Application No. 10/261,379	:	ON PETITION
Filed: September 30, 2002	:	
Attorney Docket No. 007070	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center AU 2813 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

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)
6664771	2003-12-16	10261388	2002-09-30	14516-44004

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	/Tim Tingkang Xia/	Date (YYYY-MM-DD)	2008-12-10
Name	Tim Tingkang Xia	Registration Number	45242

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. 6664771
Issue Date: December 16,2003
Application No. 10261388
Filed: September 30,2002
Attorney Docket No. 60067.0003USD1

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

This is a decision on the electronic petition, filed December 10,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 10,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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.
10/261,390	09/30/2002	Michael Bruce	AMDI:124\HON	7304

23858 7590 07/21/2004

TIMOTHY M HONEYCUTT ATTORNEY AT LAW
P O BOX 1577
CYPRESS, TX 77410

EXAMINER	
NGUYEN, TUNG X	

ART UNIT	PAPER NUMBER
2829	

DATE MAILED: 07/21/2004

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 07192004

TIMOTHY M HONEYCUTT ATTORNEY AT LAW
P O BOX 1577
CYPRESS TX 77410

JUL 21 2004

In re Application of
BRUCE et al.
Application No.: 10/261390
Filed: 09/30/2002
Attorney Docket No. AMDI:124\HON

WITHDRAWAL FROM ISSUE
37 CFR 1.313

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

The application is being withdrawn from issue because the application was allowed without taking into consideration the change of inventorship filed March 21, 2003.

The US Patent and Trademark Office records reveal that the issue fee has been paid and recorded on 6/15/04. The applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Fee(s) Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Fee(s) Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Any question regarding this communication should be directed to Kammie Cuneo, Supervisory Patent Examiner, at (571) 272-1957.

The application is being returned to the examiner for consideration of the preliminary amendment and for taking appropriate action.

Sharon Gibson, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Paper No. 5

MAIL

MAR 0 4 2004

DIRECTOR OF TECHNOLOGY

Bernard Malina
Malina & Wolson
60 East 42nd Street
New York NY 10165

In re Application of :
FOX et al. :
Application No. 10/261,409 :
Filed: October 2, 2002 :
For: **METHOD AND APPARATUS FOR TRANSMITTING A DIGITAL PICTURE WITH TEXTUAL MATERIAL** :

DECISION ON PETITION TO MAKE SPECIAL

DIRECTOR OFFICE TECHNOLOGY CENTER 2600

MAR 0 4 2004

MAIL

This is a decision on the petition filed on January 16, 2004, under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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BASF CORPORATION
ANNE GERRY SABOURIN
26701 TELEGRAPH ROAD
SOUTHFIELD MI 48034-2442

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SEP 17 2004

OFFICE OF PETITIONS

In re Application of :
Walter H. Ohrbom, et al. : DECISION ON PETITION
Application No. 10/261,428 : UNDER 37 CFR 1.78(a)(3)
Filed: September 30, 2002 :
Atty Docket No. IN-5445 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on April 15, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1).

Petitioner failed to submit an Application Data Sheet or an amendment to the first sentence of the specification following the title to include a proper reference to the prior-filed application.

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.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition under 37 CFR 1.78(a)(3) and a substitute amendment[1] stating the relationship of the prior-filed application to the instant application is required.

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

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

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

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

Telephone inquiries related to this decision should be directed to Sherry D. Brinkley at 703-305-9220.

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

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

[1] Note 37 CFR 1.121

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ANNE GERRY SABOURIN
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SOUTHFIELD, MI 48034-2442

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APR 21 2005

OFFICE OF PETITIONS

In re Application of
Walter H. Ohrborm, et al.
Application No. 10/261,428
Filed: September 30, 2002
Atty Docket No. IN-5445

: 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 on February 7, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed 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(s), unless previously submitted;[1]
>
> **(2)** the surcharge set forth in § 1.17(t); and
>
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

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

The petition satisfies all of the above requirements. A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application(s). In order for the instant application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed 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.

This application is being forwarded to Technology Center Art Unit 1713 for consideration by the Examiner of the amendments filed April 15, 2004 and February 7, 2005, including applicant's claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (2) for the benefit of priority to the prior-filed nonprovisional application.

Telephone inquiries related to this decision should be directed to Sherry D. Brinkley at (571) 272-3204.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

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1609 BIDDLE AVENUE
WYANDOTTE, MI 48192

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JUN 1 2 2006

OFFICE OF PETITIONS

In re Application of :
Walter H. Ohrbom, et al. :
Application No. 10/261,428 : ON PETITION
Filed: December 30, 2002 :
Attorney Docket No. IN-5445 :

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

The petition is **GRANTED**.

A review of the record discloses that the application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed March 4, 2004. A Notice of Abandonment was mailed on November 1, 2004. While a petition to revive under 37 CFR 1.137(b) was filed, the petition was regrettably overlooked, as it was included with a renewed petition under 37 CFR 1.78(a)(3) on February 7, 2005. Although a decision on the petition under 37 CFR 1.78(a)(3) was mailed on April 21, 2005, there was no decision on the concurrently filed petition to revive. However, on June 20, 2005, the Office issued a non-final Office action, setting a 3-month period for response. On December 22, 2005, the present petition to revive was filed.

This decision returns the application to a pending status and ratifies the ensuing prosecution.

It is noted that petitioner submitted a 3-month extension of time with the present petition. Petitioner is advised that extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Therefore, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, the $1,020 extension fees submitted with the present petition are being credited to counsel's deposit account.

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. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 1713 for consideration of the amendment filed December 22, 2005.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: ANNA M. BUDDE
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

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Schmeiser, Olsen & Watts LLP
18 E. University Dr. #101
Mesa AZ 85201

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JUN 0 4 2004

OFFICE OF PETITIONS

In re Application of :
COVI et al. :
Application No. 10/261,438 : DECISION GRANTING PETITION
Filed: September 30, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. SYNT-0676 :

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

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of an application filed in an eighteen month publication country on September 5, 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 September 16, 2004, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 3712.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

Blaney Harper, Esq.
Jones, Day, Reavis & Pogue
51 Louisiana Avenue, N.W.
Washington DC 20001-2113

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JAN 3 0 2003

OFFICE OF PETITIONS

In re Application of :
Sinha et al. :
Application No. 10/261,454 : DECISION GRANTING PETITION
Filed: October 1, 2002 :
Attorney Docket No. 708034-605-009 :

This is a decision on the petition filed December 2, 2002, requesting that page 1 of the specification be accorded a filing date of October 1, 2002, as part of the original disclosure.

On October 1, 2002, applicants filed the above-identified application. On November 15, 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 October 1, 2002, and advising applicants that page 1 of the specification appeared to have been omitted.

In response, on December 2, 2002, applicants filed the present petition, the petition fee, and a copy of applicants' postcard receipt acknowledging receipt of 25 pages of specification on October 1, 2002. Additionally, applicants submitted a copy of page 1 of the specification with the present petition.

In the present petition, applicants request that the application, including page 1 of the specification, be accorded a filing date of October 1, 2002, and the petition fee be refunded.

Upon review of the record, page 1 of the specification, deposited on October 1, 2002, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on October 1, 2002, included page 1, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including page 1 of specification, was complete on filing and will be granted a filing date of October 1, 2002.

Accordingly, the petition is granted.

The Notice of November 15, 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. 10-1202.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of October 1, 2002, using pages 2 through 25 of the specification submitted on that date, and page 1, submitted on December 2, 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 AND TRADEMARK OFFICE

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250 PARK AVENUE, SUITE 825
NEW YORK NY 10177

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MAY 23 2005

OFFICE OF PETITIONS

In re Application of :
Eric Paul Plourde :
Application No. 10/261,476 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket Number: ITW-13778

This is a decision on the petition under 37 CFR 1.137(b), filed January 27, 2005, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed March 3, 2004. The non-final 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 April 5, 2004. A Notice of Abandonment was mailed on December 1, 2004.

This Petition is hereby **Granted**.

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

This application is being forwarded to Technology Center 3700 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Ostrager Chong Flaherty & Broitman PC
250 Park Avenue, Suite 825
New York, NY 10177

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OFFICE OF PETITIONS

In re Application of :
Joel L. Johnson :
Application No. 10/261,480 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. ITW-13636 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 3, 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 slightly 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 contained in the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to the Publishing Division to be processed into a patent.

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

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WASHINGTON, DC 20037-3213

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SEP 23 2003

OFFICE OF PETITIONS
ON PETITION

SEP 25 2003

In re Application of
Hiroyuki Kiyoku et al
Application No. 10/261,487
Filed: October 2, 2002
Attorney Docket No. Q72226

This is a decision on the petition under 37 CFR 1.313(a) and (c)(2), filed September 22, 2003, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 16, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2822 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

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

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Fred H. Zollinger, III
SAND & SEBOLT
Aegis Tower
4940 Munson Street, NW, Suite 1100
Canton, OH 44718

MAILED
FROM DIRECTORS OFFICE

OCT 05 2004

TECHNOLOGY CENTER 3600

In re application of
Patrick Franze et al.
Application No. 10/261,513 : DECISION ON REQUEST
Filed: September 30, 2002 : FOR WITHDRAWAL OF
For: TABLE WITH ADJUSTABLE SUPPORT : ATTORNEY

This is a decision on the request filed on August 20, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition A) above.

Since the original attorneys were not given power by a customer number, and attorneys associated with a firm change over time, it is suggested that any renewed request simply state that the request is being made on behalf of all attorneys of record.

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

KJD/slb: 09/28/04

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Scott M. Garrett
Motorola, Inc.
Law Department
8000 West Sunrise Boulevard
Fort Lauderdale, FL 33322

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MAR 16 2005

OFFICE OF PETITIONS

In re Application of
Jean Khawand
Application No. 10/261,523
Filed: September 30, 2002
Attorney Docket No. CM03394J

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed January 27, 2005.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before January 24, 2005. Receipt is acknowledged of the requisite issue fee on January 27, 2005.

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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WORKMAN NYDEGGER
(F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

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DEC 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Roy Simonson :
Application No. 10/261,546 : DECISION GRANTING PETITION
Filed:September 30, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. A-6770 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 28, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and an RCE (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of June 9, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3764.

Karen Creasy
Petitions Examiner
Office of Petitions

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MAR 0 4 2004

#4

Oppenheimer, Wolff & Donnelly, LLP
233 Wilshire Blvd.
Suite 700
Santa Monica CA 90401

In re Application of :
Potito De Paolis :
Serial No.: 10/261,555 : DECISION ON PETITION
Filed: September 30, 2002 :
For: Transcutaneous Hemodialysis Access System :

This is in response to applicants' petition filed February 12, 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 John Kittle by letter addressed to the Director, Technology Center 3700/2900, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director,
Technology Center 3700/2900

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

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OFFICE OF PETITIONS

In re Application of

Kurt A. Swauger

Application No. 10/261,573

Filed: October 1, 2002

Attorney Docket No. BRKU 0277 PUS

DECISION ON PETITION

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 15, 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 within the statutory period. Accordingly, the application became abandoned on June 16, 2006. A Notice of Abandonment was mailed on October 4, 2006.

The amendment filed November 13, 2006, is noted and made of record.

The request for extension of time within the third month, filed November 13, 2006, is noted but cannot be granted as the request was made outside the maximum statutory period for reply. The amount of $510.00 will be refunded, in due course.

The application is being forwarded to Technology Center 2100, GAU 2163 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/261576

DATE : 9/1/05

Paper No.: —

TO SPE OF : ART UNIT 1724

SUBJECT : Request for Certificate of Correction on Patent No.: 6893573 B2

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

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

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 113

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

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

Comments:

DUANE SMITH
SUPERVISORY PATENT EXAMINER

SPE

1724
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Oct. 15, 2008

TO SPE OF : ART UNIT 2629
SUBJECT : Request for Certificate of Correction for Appl. No.: 10/261584/7259740

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

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

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

Comments: _____

RICHARD HJERPE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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In re Application of SMITH, BRUCE W.
Appl. No.: 10/261,591
Filed: October 02, 2002
For: **APPARATUS AND METHOD OF IMAGE ENHANCEMENT THROUGH SPATIAL FILTERING**

WITHDRAWAL FROM ISSUE
37 CFR 1.313
OCT 4 2004

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

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

U.S. Patent and Trademark Office records reveal that the issue fee and the publication fee have not been paid. If the issue fee and the publication fee have been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Fees Due, applicant may request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified on the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

The application is being forwarded to the examiner for action.

Janice Falcone
Director
Patent Examining Technology Center 2800

PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN, VA 22102

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.
10/261,611	09/30/2002	Anastasia O. Peterson	2000.086500	8974

23720 7590 11/01/2004

WILLIAMS, MORGAN & AMERSON, P.C.
10333 RICHMOND, SUITE 1100
HOUSTON, TX 77042

EXAMINER	
LUK, OLIVIA T	

ART UNIT	PAPER NUMBER
2812	

DATE MAILED: 11/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper 10222004

WILLIAMS, MORGAN & AMERSON, P.C.
10333 RICHMOND, SUITE 1100
HOUSTON, TX 77042

OCT 28 2004

In re Application of
PETERSON
Application No. 10/261,611
Filed: September 30, 2002
Attorney Docket No. 2000.086500/TT4561

DECISION ON PETITION

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

This application was held abandoned for failure to respond to the non-final Office action within the shortened statutory period of three months from the mailing date of December 11, 2003.

A review of the written record indicates that the non-final Office action was returned by the United States Postal Service as undeliverable mail. Further, a Change of Correspondence Address was submitted on July 15, 2004. Moreover, the record does not show that the returned Office action was remailed prior to submission of the Change of Correspondence Address.

MPEP § 707.13 states the Office policy with regards to returned Office actions. Office actions are sometimes returned to the Office because the United States Postal Service has not been able to deliver them. The examiner should use every reasonable means to ascertain the correct address and forward the action again, after stamping it "remailed" with the date thereof and redirecting it if there is any reason to believe that the action would reach applicant at such new address. If the Office action was addressed to an attorney, a letter may be written to the inventor or assignee informing him or her of the returned action. The period running against the application begins with the date of remailing. *Ex parte Gourtoff*, 1924 C.D. 153, 329 O.G. 536 (Comm'r Pat. 1924).

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn. The failure of the examiner to ascertain the correct correspondence address and to remail the Office action was insufficient to hold the application abandoned.

Petitioner is reminded of the policy for a change of correspondence address. MPEP § 601.03 states: Where an attorney or agent of record (or applicant, if he or she is prosecuting the

application pro se) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address (including ZIP Code).

The application file is being forwarded to the Technology Center 2800 support staff for remailing the Office action. The shorten statutory period for response set therein will be reset to run from the date the Office action is remailed. Extensions of time are available under 37 CFR § 1.136.

Questions regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.

Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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WILLIAMS, MORGAN & AMERSON, P.C.
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

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OCT 2 7 2004

OFFICE OF PETITIONS

In re Application of :
Dakshina-Murthy et al. :
Application No. 10/261,613 : ON PETITION
Filed: 30 September, 2002 :
Att'y Dcket No. 2000.028896/TT3555C :

This is a decision on the petition under 1.137(b),[1] filed on 30 September, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 27 March, 2004, for failure to timely reply to the non-final Office action mailed on 26 December, 2003, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional 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)).

Petitioner has submitted an amendment as the required reply.

The petition fee of $1330.00 will be charged to counsel's deposit account, No. 50-0786, as authorized in the present petition.

The application file is being forwarded to Technology Center 2800 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
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In re Application of :
Dakshina-Murthy et al. :
Application Number: 10/261613 : ON PETITION
Filing Date: 09/30/2002 :
Attorney Docket Number: :
2000.028896 :

This is a decision on the "PETITION TO ACCEPT LATE FILING OF A REVISED APPEAL BRIEF BASED ON THE NOTICE OF NON-COMPLIANT DATED APRIL 7, 2006," filed on December 7, 2006, which, in the absence of a fee, is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.[1]

The Office apologizes for the delay in responding to the subject petition.

The petition is **dismissed**.

This application was held abandoned for failure to timely reply to the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) mailed on April 7, 2006, which set a one (1) month shortened period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioners assert that the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) mailed on April 7, 2006 was never received. In support of that allegation, petitioners have submitted a copy of a docket record and have provided a statement by registered patent practitioner Mark W. Sincell, attesting that a search of the file jacket and the docketing records indicates that this 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 is referenced in the practitioner's statement.

[1] In the absence of the petition fee, which is required by law, the PTO can only treat the instant petition as a (feeless 1.181) petition to withdraw the holding of abandonment. See Krahn v. Comm'r, 15 USPQ2d 1823, 1825 (E.D. Va. 1990).

A review of the record indicates no irregularity in the mailing of the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) mailed on April 7, 2006, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) mailed on April 7, 2006 was properly mailed to the address of record. This presumption may be overcome by a showing that the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) mailed on April 7, 2006 was not in fact received.

MPEP 711.03(c) states, in pertinent part:

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action

> was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> **A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.**
>
> (emphasis added)

Petitioner has not provided a copy of the master docket for the firm, nor stated whether the docket record provided is a master docket.

In accordance with MPEP 711.03(c), a copy of the practitioner's record(s) required to show non-receipt of the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) mailed on April 7, 2006 should include the master docket for the firm. That is, if a one (1) month period for reply was set in the nonreceived Notification of Non-Compliant Appeal Brief (37 CFR 41.37) mailed on April 7, 2006, a copy of the master docket report showing all replies docketed for a date one (1) month from the mail date of the nonreceived Notification of Non-Compliant Appeal Brief (37 CFR 41.37) mailed on April 7, 2006 must be submitted as documentary proof of nonreceipt of the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) mailed on April 7, 2006. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Accordingly, the petition is dismissed, but such dismissal is without predjudice to reconsideration pending submission of the information requested above.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. **This time period is not extendable.**[2]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[2] 37 CFR 1.181(f).

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United States Patent and Trademark Office
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WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

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OFFICE OF PETITIONS

In re Application of :
Dakshina-Murthy et al. :
Application Number: 10/261613 : ON PETITION
Filing Date: 09/30/2002 :
Attorney Docket Number: :
2000.028896 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PETITION TO ACCEPT LATE FILING OF A REVISED APPEAL BRIEF BASED ON THE NOTICE OF NON-COMPLIANT DATED APRIL 7, 2006," which is treated as a renewed petition under 37 CFR 1.181, filed on February 3, 2009, to withdraw the holding of abandonment.

The petition is **GRANTED**.

This application was held abandoned for failure to timely reply to the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) mailed on April 7, 2006, which set a one (1)-month shortened period for reply. The petition filed on December 7, 2006 was dismissed on November 26, 2008.

The present renewed petition is accompanied by a statement from the practitioner that the docket report previously provided is a master docket.

In view thereof, the showing of record is that the Notification of Non-Compliant Appeal Brief mailed on April 7, 2006, was never received. Therefore, there is no abandonment in fact.

The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The application is referred to Technology Center Art Unit 2822 for further processing.

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

PET. DEC.

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

APR 7 2004

In re Application of Olaru
Serial No.: 10/261,660
Filed: October, 2, 2002

DECISION ON PETITION
UNDER *37 CFR 1.48(a)*

For: **GAP SEAL BETWEEN NOZZLE COMPONENTS**

This is a decision on the petition filed November 20, 2003 to correct inventorship under 37 CFR 1.48(a) by adding the name of Denis Babin as a joint inventor. Applicant have correctly included a request to correct the inventorship that sets forth the desired inventorship change, a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her behalf, an oath or declaration by the actual inventor(s), the processing fee, and assignment.

The petition there for is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

Wanda L. Walker
Supervisory Patent Examiner
Technology Center 1700

BERESKIN & PARR
H. Roger Hart
40 King Street West, 40th Floor
Toronto, Ontario
M5H 3Y2

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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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVE., N.W.
WASHINGTON, DC 20005

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NOV 17 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
George Olaru, et al.
Application No. 10/261,660
Filed: October 2, 2002
Atty Docket No. 2107.1780001/TUM

This is a decision on the petition, filed November 12, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 13, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1722 for further processing of the request for continued examination under 37 CFR 1.114 filed November 12, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAY 2 3 2008

OFFICE OF PETITIONS

HOWREY LLP
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR. SUITE 200
FALLS CHURCH, VA 22042-2924

In re Application of	:	
Lucien Eliza Niels VOOGD, et al	:	
Application No. 10/261,667	:	DECISION ON PETITION
Filed: October 2, 2002	:	
Attorney Docket No. 04132.0101.00US00	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 1, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 2, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a

reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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 February 28, 2008 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 Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 3644 for appropriate action by the Examiner in the normal course of business on the reply received February 28, 2008.

April Wise
Petitions Examiner
Office of Petitions

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HOWREY LLP-DC
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH VA 22042-2924

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DEC 3 1 2008

In re Application of	:	
Voogd et al.	:	
Application No. 10/261,667	:	ON PETITION
Filed: October 2, 2002	:	
Attorney Docket No. 04132.0101.00US00	:	

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 Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No. 080504

RECEIVED
AUG -5 2004
TECHNOLOGY CENTER 2800

Antonelli, Terry, Stout & Kraus, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209

In re Application of:
RUMER et al.
Serial No.: 10261,676
Filed: October 2, 2002
Attorney Docket No.: **219.40778VX1**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed June 23, 2003.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of Schwegman, Lundberg, Woessner & Kluth, P.A. was filed on November 3, 2003. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

All future communications form the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Hien H. Phan at (571) 272-1606.

Hien H. Phan, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Schwegman, Lundberg, Woessner & Kluth, P.A.
PO Box 2938
Minneapolis, MN 55402

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

COPY MAILED
NOV 3 0 2006
OFFICE OF PETITIONS

In re Application of :
Rumer et al. :
Application No. 10/261,676 : ON PETITION
Filed: October 2, 2002 :
Attorney Dkt. No.: 219.40778VX1 :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed September 25, 2006.

The petition to withdraw the holding of abandonment is **GRANTED**.

This above-identified application was held abandoned for failure to timely file an appeal brief and submit the accompanying fee. Applicant filed a Notice of Appeal on February 27, 2006 . Pursuant to 37 CFR 41.37(a) applicant was required to file an Appeal brief two months from February 27, 2006. A Notice of Abandonment was mailed on August 8, 2006.

In the present petition, petitioner contends the Notice of Abandonment was mailed prematurely because pursuant to 37 CFR 1.136(a) petitioner's time period of reply was extendable for an additional five (5) months. Thus, petitioner contends the maximum time period for reply expired on September 27, 2006.

Pursuant to 37 CFR 1.136, petitioner was eligible to purchase an additional five months to reply to the Notice of Appeal. Thus, the last day petitioner could timely submit a reply was September 27, 2006. A review of the record shows that on petition, petitioner has submitted a five month extension of time with the accompanying fee of $2,160.00, and RCE. Petitioner has requested that the January 16, 2006 amendment be used as the submission requirement.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The application is being referred to Art Unit 2813 for processing of the RCE.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC 20 2005

JONES, WALKER, WAECHTER, POITEVENT,
CARRERE & DENEGRE, L.L.P.
4TH FLOOR, FOUR UNITED PLAZA
8555 UNITED PLAZA BOULEVARD
BATON ROUGE, LA 70809

In re application of Verne Adrian Application No. 10/261,701 Filed: September 30, 2002 For: METHOD FOR ALLOCATING HOME HEALTH SERVICES	: : : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on November 14, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 12/06/05

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INTERNATIONAL BUSINESS MACHINES CORPORATION
DEPT. 18G, BLDG. 300-482
2070 ROUTE 52
HOPEWELL JUNCTION, NY 12533

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NOV 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Costrini et al. :
Application No. 10/261,709 : ON PETITION
Filed: October 1, 2002 :
Attorney Docket No. FIS920020068US1 :

This is a decision on the petition filed August 3, 2004, under 37 CFR 1.48(a) to correct the inventorship in the above-identified application and the petition under 37 CFR 1.183,[1] requesting waiver of 37 CFR 1.48(a)(3), which requires submission of an oath or declaration by the actual inventors.

The petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(3) is **granted**.

The petition under 37 CFR 1.48(a) to correct inventorship is **granted**.

An executed declaration in compliance with 37 CFR 1.63 was filed on October 1, 2002. The executed declaration listed only listed three inventors - Gregory Costrini, John Hummel, and Kia-Seng Low. All three inventors signed the declaration.

The instant petitions were filed to correct the inventorship by adding inventors - Igor Kasko, Frank Findeis, and Wolfgang Raberg.

Petitioner has met the requirements of 37 CFR 1.48 except for 37 CFR 1.48 which requires "An oath or declaration by the actual inventor or inventors as required by §1.63." However, the petition under 37 CFR 1.183 establishes that justice would be served by waiving the requirement for the originally listed inventor's signature on the supplemental declaration filed on August 3, 2004. The aforementioned supplemental declaration has been accepted, on petition, and placed in the file.

The inventorship of the application will be changed by the addition of Kasko, Findeis, and Raberg.

Please find enclosed a corrected filing receipt which reflects the corrected inventorship.

A petition fee has already been charged for the petition under 37 CFR 1.183. The Office will also charge $130 for the fee required for a petition under 37 CFR 1.48.

---

[1] Although the petition is labeled as a petition under 37 CFR 1.47, the petition is properly treated as a petition under 37 CFR 1.183 and 1.48.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland CO 80537-0599

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APR 15 2005

OFFICE OF PETITIONS

In re Application of :
Vice :
Application No. 10/261,711 :
Filed: September 30, 2002 :
Attorney Docket No. 10011348-1 :
For: SWITCHING SYSTEM

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 17, 2005, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the March 24, 2004 Notice of Allowance and Fee(s) Due. Accordingly, this application became abandoned on June 25, 2004. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Applicant has submitted a proper reply in the form of the issue fee, the publication fee and the PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the March 24, 2004 Notice of Allowance and Fee(s) Due, and the petition fee.[1]

The petition is **granted**.

This application is being forwarded to Publishing Division for processing into a patent.

---

[1] Pursuant to petitioner's authorization, deposit account no. 50-1078 will be charged the $1500.00 petition fee, the $1,400.00 issue fee, and the $300.00 publication fee.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

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
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HARDY L CRUMBY
1409 EAGLE COURT
FERNLEY NV 89408

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APR 1 4 2003

OFFICE OF PETITIONS

In re Application of .
Hardy L. Crumby
Application No. 10/261,744
Filed: October 1, 2002
Title: GAMING DEVICE INCLUDING OUTCOME POOLS FOR PROVIDING GAME OUTCOMES

LETTER

Dear Mr. Crumby:

You are named as the inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the inventor.

As the 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

Adam H. Masia
P.O. Box 1135
Chicago, Illinois 60690-1135
(312)807-4284

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

BELL BOYD & LLOYD LLC
PO BOX 1135
CHICAGO IL 60690-1135

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APR 1 4 2003

OFFICE OF PETITIONS

In re Application of
Hardy L. Crumby
Application No. 10/261,744
Filed: October 1, 2002
Attorney Docket No. 0112300-600

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed December 17, 2002.

The petition under 37 CFR 1.47(b) is **GRANTED**.

The above-identified application was filed on October 1, 2002, without an executed oath or declaration. Accordingly, on October 30, 2000, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition, and paid both the petition fee and the surcharge for late filing of the declaration. Accompanying the petition were, *inter alia*: (1) a declaration giving the name, residence and citizenship of sole inventor Hardy L. Crumby, bearing the signature of attorney Adam H. Masia; and (2) a statement of facts by Adam H. Masia, attesting that Crumby made an oral refusal to accept the application papers unless he were paid severance and retirement moneys.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that all of the inventors cannot be reached or refuse 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) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage; (4) the petition fee; (4) a statement of the last known address of the non-signing inventor; and (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application.

The petition filed on December 17, 2002 has been reviewed and found to be in compliance with 37 CFR 1.47(b). The declaration

filed with the petition has been determined to be in compliance with 37 CFR 1.63.

This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the 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 3700, Group Art Unit 3711 for docketing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PALMER & DODGE, LLP
KATHLEEN M. WILLIAMS / STR
111 HUNTINGTON AVENUE
BOSTON MA 02199

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SEP 0 8 2006
OFFICE OF PETITIONS

In re Application of :
Reid et al. :
Application No. 10/261,751 : DECISION ON PETITION
Filed: October 1, 2002 :
Attorney Docket No. 25436-2092 :

This is a decision on the petition under 37 CFR §1.137(b), filed May 9, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action which was mailed on September 22, 2005. The final Office Action set a three (3) month shortened statutory period for reply. A reply was filed on March 23, 2006 (certificate of mailing March 22, 2006) with a three month extension of time. An Advisory Action was mailed on April 12, 2006 informing applicant the response filed did not place the application in condition for allowance. Accordingly, this application became abandoned on March 23, 2006. A Notice of Abandonment was mailed May 1, 2006.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The address on the petition differs from the correspondence address of record. While a courtesy copy of this decision is being mailed to the person signing the present petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

The Request for Continued Examination (RCE), and the amendment will be 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
Petitions Attorney
Office of Petitions

cc: Kathleen M. Williams
Edwards Angell Palmer & Dodge LLP
P.O. Box 55874
Boston, MA 02205

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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AGILENT TECHOLOGIES INC
P.O. BOX 7599
BLDG E, LEGAL
LOVELAND, CO 80537-0599

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APR 2 4 2008

OFFICE OF PETITIONS

In re Application of :
Taylor Reid et al :
Application No. 10/261,751 :
Filed: October 1, 2002 :
Attorney Docket No. 25436/2092 :

ON PETITION

This is a decision on the petition filed November 30, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed July 12, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 13, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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AGILENT TECHOLOGIES INC
P.O. BOX 7599
BLDG E, LEGAL
LOVELAND, CO 80537-0599

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MAY 0 2 2008

OFFICE OF PETITIONS

In re Application of :
Taylor Reid et al :
Application No. 10/261,751 : ON PETITION
Filed: October 1, 2002 :
Attorney Docket No. 25436/2092 :

CORRECTED DECISION

This is a decision on the petition under 37 CFR 1.137(b), filed November 30, 2007 to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

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 July 12, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 13, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(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 Office mailed a Notice to File Corrected Application Papers on October 3, 2007 given the applicant 60 days to correct the informalities. The Office has not received the correction(s) as required in this notice. A courtesy copy of this notice is enclosed.

The decision mailed April 24, 2008 is hereby vacated as of the mail date of this decision.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Notice to File Corrected Application Papers mailed October 3, 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/261,751	10/01/2002	Taylor Reid	25436/2092	7986

27495 7590 10/05/2007

AGILENT TECHOLOGIES INC
P.O BOX 7599
BLDG E , LEGAL
LOVELAND, CO 80537-0599

EXAMINER	
BEISNER, WILLIAM H	

ART UNIT	PAPER NUMBER
1744	

NOTIFICATION DATE	DELIVERY MODE
10/05/2007	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):

IPOPS.LEGAL@agilent.com
maria_carroll@non.agilent.com
laurie_schutze@agilent.com

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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Application Number : 10/261,751
Applicant : Reid et al.
Filing Date : 10/1/02
Notification Date : 10/5/07

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Notice of Allowance Mailed

This application has been accorded an Allowance Date and is being prepared for issuance. The application, however, is incomplete for the reasons below.

Applicant is given 60 days from the mail date of this Notice within which to correct the informalities indicated below. If the informality pertains to the abstract, specification (including claims) or drawings, the informality must be corrected with an amendment in compliance with 37 CFR 1.121 (or, if the application is a reissue application, 37 CFR 1.173). Such an amendment may be filed after payment of the issue fee if limited to correction of informalities noted herein. See Waiver of 37 CFR1.312 for Documents Required by the Office of Patent Publication, 1280 Off. Gaz. Patent Office 918 (March 23, 2004). In addition, if the informality is not corrected until after payment of the issue fee, for purposes of 35 U.S.C. 154(b)(1)(iv), "all outstanding requirements" will be considered to have been satisfied when the informality has been corrected. A failure to reply will result in the application being ABANDONED. **This period for reply is NOT extendable under 37 CFR 1.136(a).**

See attachment.

A copy of this notice MUST be returned with the reply. Please address response to "Mail Stop Issue Fee,Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450".

Dale G. Olson
Office of Patent Publication
Phone: 703-308-9250 ext.122

Application No. 10/261,751 Drawings filed 2-6-03

IDENTIFICATION OF DRAWING DEFICIENCIES

- ☐ There is a hole or the image thereof within the illustration. FIG(s)_____
- ☐ The character of the lines, numbers and letters is poor. FIG(s) _____
- ☐ The illustration is penetrated or traversed by a solid or broken line that is not intended to be part of the drawing, such as a dark line caused by a flaw in the copying process. FIG(s)_____
- ☐ An ink stamp or an image obscures part of the illustration. FIG(s)_____
- ☐ The drawing is marred by black smudges, obliterations, or fax/copier marks. FIG(s)_____
- ☐ Figure numbers are duplicated or missing. FIG(s). _____
- ☐ Numbers, letters, or reference characters in the drawing have been crossed out by hand or are illegibly handwritten. FIG(s)_____
- ☐ The drawing's background shows that the original drawing was made on graph paper or other paper with a pattern or decoration. FIG(s)_____
- ☐ The FIG. number label is placed in a location that causes the drawing to be read upside down. FIG(s)_____
- ☒ Data, a reference number, or part of the drawing is truncated or missing. FIG(s) 4 (First sheet of FIG. 4 has insufficient margins.)
- ☐ The drawing is continued onto a second page (or more) without proper labeling under 37 CFR 1.84(u)(1). FIG(s)_____
- ☐ The drawing and/or the FIG. label contain(s) foreign language. FIG(s)_____
- ☐ Color drawings are present in this application but the following 37 CFR 1.84(a) requirements have not been met*:
  - ☐ Petition filed
  - ☐ Petition fee
  - ☐ 3 sets of color drawings
  - ☐ Color drawing paragraph

*If color drawings are not elected, then applicant **must respond** so stating. Also, references to color drawings in the specification, if any, must be amended.

COMMENTS:

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AGILENT TECHOLOGIES INC
P.O. BOX 7599
BLDG E, LEGAL
LOVELAND, CO 80537-0599

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OCT 2 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Taylor Reid et al	:	
Application No. 10/261,751	:	ON PETITION
Filed: October 1, 2002	:	
Attorney Docket No. 10070549-02	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 1, 2008, 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 the Office of Data Management for further processing.

Irvin Dingle
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)
6595439	2003-07-22	10261766	2002-10-02	

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	/Chao-Chang David Pai/	Date (YYYY-MM-DD)	2008-03-03
Name	Chao-Chang David Pai	Registration Number	51195

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. 6595439
Issue Date: July 22,2003
Application No. 10261766
Filed: October 2,2002
Attorney Docket No. BHT-3125-105

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed March 3,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 3,2008 . 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

Paper No.

NIXON & VANDERHYE, PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON, VA 22201-4714

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OFFICE OF PETITIONS

In re Patent No. 6,739,181 :
Takayoshi Honda :
Issue Date: May 25, 2004 : DECISION ON REQUEST
Application No. 10/261,783 : FOR
Filed: October 2, 2002 : CERTIFICATE OF CORRECTION
Atty Docket No: 2018-600 :

This is a decision on the "REQUEST FOR A CERTIFICATE OF CORRECTION UNDER 37 C.F.R. § 1.322 - OFFICE MISTAKE OR, ALTERNATIVELY, REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT REDUCTION, AND, ALTERNATIVELY, PETITION UNDER 37 C.F.R. § 1.181(3)," filed June 15, 2004. Patentee contends that the instant patent should show a patent term adjustment of 45 days, not the 0 days indicated in the patent.

The request is **DENIED**.

Patentee is are given **TWO (2) MONTHS** to respond to this decision. No extensions of time will be granted under § 1.136.

On January 16, 2004, the Office mailed the initial 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 45 days.

On May 25, 2004, application No. 10/261,783 matured into U.S. Patent No. 6,739,181. The instant paper was filed June 15, 2004, filed within two months of the date the patent issued. See § 1.705(d)(revised effective May 24, 2004). However, no fee for consideration of a request for reconsideration accompanied this paper. Absent the required fee, the instant paper is properly treated as a request for certificate of correction under § 1.322.

Issuance of a certificate of correction under § 1.322 is permitted if an error in the patent is shown. No error in the patent has been shown. The patent term adjustment indicated in the patent reflects the patent term adjustment shown in the PAIR system for this application. After the mailing of the notice of allowance, on January 16, 2004, the Office adjusted the PTA of 45 days, reducing it by 93 days for the filing of drawings after the mailing of the notice of allowance. Since zero (0) days of PTA is the correct value for PTA, no certificate of correction will be issued to change the PTA under 37 C.F.R. § 1.322.

Patentees are advised that 37 C.F.R. § 1.705(d) provides the avenue before the Office for requesting reconsideration of the patent term adjustment indicated in the patent based on a dispute of the Office's calculation of the patent term adjustment. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." As the instant request for a certificate of correction was filed within two months of the issue date of the patent, the request may be treated as timely filed under § 1.705(d).

If patentee wishes the Office to consider the request for correction of PTA under the provisions of 37 C.F.R. § 1.705(d), patentee must so advise the Office and clearly authorize payment of the required fee within the time period for response set forth in this decision.

No fee has been charged and none is required for consideration of the request under 37 C.F.R. § 1.322.

The application file is being returned to the Certificate of Corrections Branch for their review of this decision.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Apr-06

KONSTANTINE J. DIAMOND
4010 E. 26TH STREET
LOS ANGELES CA 90023

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MAY 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Apps et al.	:	DECISION ON PETITION
Application No. 10/261,793	:	
Filed: 30 September, 2002	:	
Attorney Docket No. RPC 0516PUSA	:	

This is a decision on the petition filed on 11 February, 2005, requesting withdrawal of the holding of abandonment in the above-identified application, which is treated as a petition under 37 CFR 1.181.

The Office apologizes for the delay in responding to the present petition.

The petition is **dismissed**.

The application became abandoned on 4 June, 2004, for failure to submit a corrected Appeal Brief in triplicate in response to the Notification of Non-Compliance with 37 CFR 1.192(c) mailed on 4 May, 2004, which set a one (1) month period for reply. Notice of Abandonment was mailed on 26 January, 2005.

Petitioners assert that the Notification of Non-Compliance was mailed in error. Specifically, petitioners argue that "[t]he Notice of Non-Compliance was in error because the Appeal Brief was in compliance, or at the very least, the Notice of Non-Compliance was so unclear as to what was objectionable in the Brief that Appellant was unable to respond with a Corrected Brief.

Petitioners' evidence has been considered, but is not persuasive. The Notification of Non-Compliance with 37 CFR 1.192(c) clearly set forth that a corrected Appeal Brief was required, and stated the deficiencies found in the Appeal Brief filed on 26 January, 2004. Further, the Notice clearly stated that to avoid dismissal

of the appeal, a new appeal brief must be filed within the time period stated.

As petitioners concededly failed to file a corrected Appeal Brief, the requirements of the Notification were not met.

The propriety of a rejection, objection, or other requirement set forth in an Office action is not relevant to an applicant's burden to timely prosecute the application to avoid abandonment. Put simply, no further consideration will be given to petitioners' contentions regarding the propriety of the rejections, objections, or other requirements set forth in the Office communication of 4 May, 2004, or the patentability of the subject invention of the instant application, unless the application is restored to pending status, via the revival of the application.

Any subsequent petition which includes arguments directed towards the rejection, objection, or other requirement set forth in an Office action and fails to address applicant's failure to file an appropriate response may be considered to be a deliberate decision to intentionally delay the presentation of a grantable petition, which constitutes an absolute bar to revival.

As such the application is properly held abandoned.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." Extensions of time are permitted under 37 CFR 1.136(a). In the alternative, petitioner may wish to file a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Jul-06

KONSTANTINE J. DIAMOND
4010 E. 26TH STREET
LOS ANGELES CA 90023

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JUL 11 2006
OFFICE OF PETITIONS

In re Application of :
Apps et al. : DECISION ON PETITION
Application No. 10/261,793 :
Filed: 30 September, 2002 :
Attorney Docket No. RPC :
0516PUSA :

This is a decision on the petition filed on 18 May, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 4 June, 2004, for failure to submit a corrected Appeal Brief in triplicate in response to the Notification of Non-Compliance with 37 CFR 1.192(c) mailed on 4 May, 2004, which set a one (1) month period for reply. Notice of Abandonment was mailed on 26 January, 2005. The petition to withdraw the holding of abandonment filed on 11 February, 2005, was dismissed on 2 May, 2006.

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The examiner has determined that the corrected Appeal Brief filed with the present petition has corrected the deficiencies and is a proper reply. As such, the petition may be favorably considered.

The address in the petition is different than the correspondence address. A courtesy copy of this decision will be mailed to the address listed on the petition. All future correspondence will be mailed solely to the address of record.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[2] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that 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 Art Unit 3727 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: John E. Carlson
Carlson, Gaskey & Olds, P.C.
400 W. Maple, Suite 350
Birmingham MI 48009

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[2] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 2 0 2006

OFFICE OF PETITIONS

Law Offices of Mark C. Pickering
P.O. Box 300
Petaluma, CA 94953

In re Application of :
Wilson John Tang :
Application No. 10/261,813 : DECISION ON PETITION
Filed: September 30, 2002 : TO WITHDRAW
Attorney Docket No. 300-10100 : 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 5, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the Law Offices of Mark C. Pickering has been revoked by the assignee of the patent application on November 1, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

J. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Fish & Richardson, PC**
P.O. Box 1022
Minneapolis, MN 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
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INTELLECTUAL PROPERTY LAW GROUP, LLP
12 SOUTH FIRST STREET
SUITE 1205
SAN JOSE, CA 95113

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SEP 24 2004

OFFICE OF PETITIONS

In re Application of :
Shi-Sheng Wang et. al. :
Application No. 10/261,814 : NOTICE
Filed: September 30, 2002 :
Attorney Docket No. N/A :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This file is being referred to the Office of Publications for further processing.

Inquiries related to this communication should be directed to the undersigned at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Fulbright, and Jaworski, LLP
Patent Docketing - 29th Floor
865 South Figueroa Street
Los Angeles, CA 90017-2576

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OFFICE OF PETITIONS

In re Application of :
Jin-Chuan Bai :
Application No. 10/261,834 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. LA-7280-104XX/10210406 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 14, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed December 1, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned after midnight March 1, 2004.

In response, petitioner submitted with the instant petition $1,330 for the petition to revive fee, $1,330 for the issue fee, $300 for the publication fee, and $30 for ten (10) advance order of soft copies.

The petition is **GRANTED**.

The application file is being forwarded to the Office of Publications for further processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 6

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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OCT 29 2004

OFFICE OF PETITIONS

In re Application of	:	
Bradley et al.	:	
Application No. 10/261,853	:	DECISION DISMISSING
Filed: September 30, 2002	:	PETITION
Attorney Docket No. 082225.P7804	:	

This is in response to the "PETITION FOR REVIVAL OF AN APPLICATION ABANDONED UNAVOIDABLY UNDER 37 C.F.R. § 1.137(b)," filed July 13, 2004.

The above-identified application became abandoned for failure to timely or properly reply to the Notice to File Corrected Application Papers mailed November 1, 2002. The Notice required applicants to submit replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121. The Notice set a two-month time limit for reply, with extensions of time obtainable under § 1.136(a). No reply was filed within this period and no extensions of time under the provisions of 37 CFR § 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 2, 2003. A Notice of Abandonment[1] was mailed on June 7, 2004.

Petitioner maintains that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unavoidable. Petitioner maintains that the initial patent application was filed with an executed Declaration and therefore would not have incurred a Missing Parts notice. Petitioner states that there is no docket entry for a Missing Parts notice in our docketing system. However, petitioner does not submit copies of the docketing records to show nonreceipt.

STATUTES, RULES AND REGULATIONS

35 U.S.C. § 133 provides that the Director may revive an application if the delay in replying to the outstanding Office action is shown to the satisfaction of the Director to have been unavoidable. A grantable petition to revive an unavoidably

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[1] The Notice of Abandonment cites failure to respond to a Notice to File Missing Parts; however, as stated, applicants failed to respond to a Notice to File Corrected Application Papers.

abandoned application under 37 CFR §1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR § 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to § 1.137(d).

The burden of showing the cause of the delay is on the person seeking to revive the application. Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. 977, 982 (D.C. Cir. 1982). This burden includes establishing that the entire delay from the due date for the reply until the filing of a grantable petition was unavoidable. Haines v. Quigg, 673 F.Supp. 314, 316-17, 5 U.S.P.Q.2d 1130, 1131-32 (N.D. Ind. 1987). Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the "reasonably prudent person standard" in determining if the delay was unavoidable:

> The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

ANALYSIS

In this instance, requirement 37 CFR 1.137(a)(2) has been met, and requirement 37 CFR 1.137(a)(4) is not applicable. Requirements 37 CFR 1.137(a)(1) and (3) are at issue. As to requirement (1), the petition does not include a reply to the Notice to File Corrected Application Papers mailed November 1, 2002. Based on the language used in the notice of abandonment, it appears that petitioner does not realize that the outstanding action is a Notice to File Corrected Application Papers, and that replacement drawings are required. A copy of the Office action mailed November 1, 2002 is enclosed to aid petitioner in filing the required reply on renewed petition.

As to requirement (3), petitioners have not met their burden of showing that the entire delay from the due date for reply to the filing of a grantable petition was unavoidable.

A review of the Office action of November 1, 2002 reveals that the action was mailed to the correspondence address of record at Blakely Sokoloff. The record reveals no irregularity in mailing. Furthermore, petitioner submitted no docketing records in support of a conclusion that the Office action was not received at Blakely Sokoloff and included no statements from practitioner or applicants attesting to the fact that a search of the file jacket and docket records indicated that the Notice to File Corrected Application Papers was not received at Blakely Sokoloff.

Accordingly, it can not be concluded on the basis of nonreceipt of the Office action that the delay in replying to the Office action was unavoidable.

CONCLUSION

The petition under § 1.137(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. 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)," as appropriate. Extensions of time under 37 CFR § 1.136(a) are permitted.

Alternative Venue

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a request for reconsideration pursuant to 37 CFR § 1.137(b) on the basis of unintentional delay. A grantable petition under § 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to § 1.137(d).

Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
ATTN: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

By hand: Effective June 5, 2004, patent correspondence

delivered by hand or delivery services, **other than the USPS**, to the Customer Window must be addressed as follows:

U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Notice of Corrected Application Papers

UNITED STATES 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.

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

COPY MAILED

JAN 21 2005

OFFICE OF PETITIONS

In re Application of :
Bradley et al. :
Application No. 10/261,853 : DECISION ON
Filed: September 30, 2002 : PETITION
Attorney Docket No. 082225.P7804 :

This is a decision on the "RENEWED PETITION UNDER 37 C.F.R. § 1.137(a) ALTERNATIVELY, PETITION UNDER 37 C.F.R. § 1.137(b)" filed November 15, 2004. This petition is decided, in light of, the supplement to petition filed November 26, 2004.

The petition under § 1.137(a) is **GRANTED**.

The above-identified application became abandoned on January 2, 2003 for failure to timely or properly reply to the Notice to File Corrected Application Papers mailed November 1, 2002. The initial petition under § 1.137(a) filed July 13, 2004, was dismissed for failure to make an adequate showing of unavoidable delay. Petitioner did not submit copies of docketing records to support a conclusion that the Office action was not received nor was a statement from practitioner or applicants attesting to the fact that a search of the file jacket and docket records indicated that the Notice to File Corrected Application Papers was not received.

On instant renewed petition under § 1.137(a), petitioner has supplied the docket report for the instant application and attested to a search of the file jacket having shown that the Office action was not received. In addition, petitioner submitted the required reply in the form of a replacement drawing sheet 1 of 1, containing figure 1B.

The application file is being forwarded to the Office of Initial Patent Examination (OIPE) for consideration of the Response to Notice to File Corrected Application Papers received November 15, 2004.

Telephone inquiries related to this decision may 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
www.uspto.gov

BASF CORPORATION
ANNE GERRY SABOURIN
26701 TELEGRAPH ROAD
SOUTHFIELD, MI 48034-2442

COPY MAILED

SEP 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Walter H. Ohrbom, et. al. :
Application No. 10/261,888 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. IN-5586 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed by facsimile transmission on April 15, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/741,511, filed December 19, 2000.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(I) of the prior-filed application(s), unless previously submitted;
>
> **(2)** the surcharge set forth in § 1.17(t); and
>
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1).

Petitioner failed to submit an Application Data Sheet or an amendment to the first sentence of the specification following the title to include a proper reference to the prior-filed application.

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.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition under 37 CFR 1.78(a)(3) and a substitute amendment[1] stating the relationship of the prior-filed application to the instant application is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop PETITION
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306**.

Telephone inquiries related to this decision should be directed to Andrea Smith at (703) 308-6711[1].

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Lead Petitions Examiner

[1] Note 37 CFR 1.121

[1]After September 27, 2004, the telephone number will be (571) 272-3226.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

BASF CORPORATION
1609 BIDDLE AVENUE
WYANDOTTE, MI 48192

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OFFICE OF PETITIONS

In re Application of :
Walter H. Ohrbom, et. al. :
Application No. 10/261,888 : DECISION ON PETITION
Filed: September 30, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. IN-5586 :

This is a decision on the communication, filed by facsimile transmission on September 30, 2004, which is being treated as a renewed petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment and Application Data Sheet (ADS) filed with the petition. The delay in responding is regretted.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

A review of the record fails to indicate that a change of address has been submitted. Since the address given on the petition differs from the address of record, a courtesy copy of this decision

is being mailed to the address on the petition. Thereafter, all future correspondence regarding this application will be directed solely to the address of record until otherwise instructed. If appropriate, a change of address should be filed in accordance with MPEP 601.03.

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.

This application is being forwarded to Technology Center Art Unit 1762, for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Any inquiries concerning this decision may be directed to Andrea Smith at (571) 272-3226. 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

ATTACHMENT: Corrected Filing Receipt

cc: Anne Sabourin, Esq.
BASF Corporation
26701 Telegraph Road
Southfield, MI 48034-2442

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/261,888	09/30/2002	1762	740	IN-5586		11	2

CONFIRMATION NO. 1247

26922
BASF CORPORATION
1609 BIDDLE AVENUE
WYANDOTTE, MI 48192

CORRECTED FILING RECEIPT

OC000000019805609

Date Mailed: 07/28/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Walter H. Ohrbom, Hartland Township, MI;
Sergio E. Balatan, West Bloomfield, MI;
David J. Law, Livonia, MI;
Robert D. Weise, Harper Woods, MI;

Assignment For Published Patent Application

BASF CORPORATION

Power of Attorney:

Anne Sabourin--33772
Mary Golota--36814
Michael Morgan--42906

Domestic Priority data as claimed by applicant

This application is a CIP of 09/741,511 12/19/2000 PAT 6,541,594

Foreign Applications

If Required, Foreign Filing License Granted: 11/04/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/261,888

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method of providing cured coating films free of popping defects

Preliminary Class

427

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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

NXP, B.V.
NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

ON PETITION

In re Application of
Sander Matthijs Van Rijnswou
Application No. 10/261,894
Filed: September 30, 2002
Attorney Docket No. NL 010712

This is a decision on the petition under 37 CFR 1.137(b), filed February 2, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 18, 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 application became abandoned on July 19, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of

agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 2137 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: **Raymond J. Werner**
2056 NW Aloclek Dr., #314
Hillsboro, OR 97124

DATE 11/14/07

APPLICATION NUMBER 7,226,634

DOC CODE COCX

DOC DATE 11/4/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/1/07 Paper No.: ____

TO SPE OF : ART UNIT 1762

SUBJECT : Request for Certificate of Correction on Patent No.: 7226634

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

TIMOTHY MEEKS
SUPERVISORY PATENT EXAMINER

SPE

1792
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

MILTON S. SALES
PATENT LEGAL STAFF
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER, NY 14650-2201

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FEB 13 2003

OFFICE OF PETITIONS

In re Application of :
Ludington, et al. :
Application No. 10/261,986 : ON PETITION
Filed: October 1, 2002 :
Attorney Docket No. 84939WRZ :

This is a decision on papers styled "Petition Under 37 CFR 1.17(i)," filed on January 21, 2003 (certificate of mailing date: January 16, 2002), which has been treated as a petition under 37 CFR 1.182, requesting that the above-identified application be accorded a filing date of October 1, 2002, including pages 22-25 of the specification.

The application was filed on October 1, 2002. However, on November 13, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application," that stated the application had not been accorded a filing date, and the pages 22-25 of the specification appear to have been omitted.

In response, on January 21, 2003 (certificate of mailing date: January 16, 2002), the instant petition and a copy of pages 22-25 of the specification were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of twenty-six (26) pages of specification, claims and abstract, on October 1, 2002. A review of the application file indicates the presence of twenty-two (22) pages of specification, claims and abstract. It is assumed that pages 22-25 of the specification were misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition fee submitted on January 21, 2003 will be refunded to deposit account no. 05-0225.

This application will be returned to OIPE for further processing with a filing date of October 1, 2002, using the copy of pages 22-25 of the specification, supplied on January 21, 2003.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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NORTEL NETWORKS LIMITED
3500 CARLING AVENUE
OTTAWA, ON K2H 8E9
CANADA

Mail Date: 05/14/2010

Applicant	: Richard C. Taylor	: DECISION ON REQUEST FOR
Patent Number	: 7646761	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/262,022	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/01/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2101** 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

THE GATES CORPORATION
IP LAW DEPT. 10-A3
1551 WEWATTA STREET
DENVER, CO 80202

COPY MAILED

APR 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Liu et al.	:	
Application No. 10/262,035	:	ON PETITION
Filed: September 30, 2002	:	
Attorney Docket No. B02-073A	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 22, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the final Office action mailed June 24, 2004. A one-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on October 25, 2004. A Notice of Abandonment was mailed March 24, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

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.[2]

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item (1). The Amendment submitted to the Examiner on March 22, 2005 failed to place the above-identified application in prima facie condition for allowance. A proper reply to a final rejection under 37 CFR 1.113 may be: (1) an amendment, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee); or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. Petitioner must submit one of the above documents in order to revive the above-identified application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THE GATES CORPORATION
IP LAW DEPT. 10-A3
1551 WEWATTA STREET
DENVER, CO 80202

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MAY 1 2 2005

OFFICE OF PETITIONS

In re Application of :
Liu et al. :
Application No. 10/262,035 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. B02-073A :

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed May 4, 2005, to revive the above-identified application.

The petition is **GRANTED.**

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to Technology Center 2800 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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)
6,681,952	2004-01-27	10/262,043	2002-09-30	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Kelly Mowe/	Date (YYYY-MM-DD)	2008-04-15
Name	Kelly Mowe		

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
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In re Patent No. 6681952
Issue Date: January 27,2004
Application No. 10262043
Filed: September 30,2002
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 15,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 15,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Bradley Ryan Harrington	: DECISION ON REQUEST FOR
Patent Number	: 7650530	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/262,055	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/30/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1927** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW 07-04

MARSHALL, GERSTEIN & BORUN LLP
6300 SEARS TOWER
233 S. WACKER DRIVE
CHICAGO IL 60606

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JUL 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Eby, Smith, Gaska, and Serrault : DECISION REFUSING STATUS
Application No. 10/626,081 : UNDER 37 CFR 1.47(a)
Filed: 24 July, 2003 :
Atty Docket No. 29618/38938 :

This is in response to the petition filed under 37 CFR 1.47(a) on 6 May, 2004

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 24 July, 2003, without an executed oath or declaration.

Accordingly, on 20 April, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration, a surcharge for its late filing, and replacement drawings in compliance with 37 CFR 1.84 and 1.121.

In response, on 6 May, 2004, the present petition was filed, along with a declaration naming David C. Eby, Gilius A. Gaska, Aaron W. Smith, and Jayson J. Serrault as joint inventors and signed by all of the inventors except joint inventor Serrault on behalf of themselves and non-signing joint inventor Serrault.

Additionally, on 24 June, 2004 (certificate of mailing date 21 June, 2004), petitioners filed replacement drawings as required by the Notice.

Petitioners state that a letter include the declaration was sent to joint inventor Serrault's last known address, but that the letter was returned as undeliverable.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1) and (2).

With regard to item (1), In regards to item (1), petitioners have not submitted sufficient proof that diligent efforts have been made to locate the non-signing inventor.[1] In this regard, petitioners should submit a copy of an envelope showing that a letter sent to the last known address of the non-signing inventor was returned as undeliverable by the post office. Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details.

It is noted that the petition states that a copy of the envelope returned as undeliverable by the post office is enclosed with the petition, however, no such copy has been located among the papers filed on 6 May, 2004. A copy of the envelope showing that it was returned as undeliverable should accompany any renewed petition.

In regards to item (2), the declaration contains is defective in that it contains non initialed and/or non-dated alterations.[2]

---

[1] MPEP 409.03(d).

[2] See 37 CFR 1.52(c).

Specifically, there is an uninitiated and/or undated alteration in the signature block for joint inventor Eby. A new oath or declaration in compliance with 37 CFR 1.63 and 1.67, identifying the application by serial number and filing date, signed by the inventor to whom the error or deficiency relates is required.[3]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

OR,
for correspondence filed after 28 September, 2004:[4]

(571) 273-0025
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

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

---

[3] 37 CFR 1.67(a)(2).

[4] It is anticipated that the Office of Petitions will complete its move to the new USPTO Carlysle office building in Alexandria, Virginia on or about this date.

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

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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MAR 1 7 2003

OFFICE OF PETITIONS

In re Application of
Koibuchi et al.
Application No. 10/262,083
Filed: October 2, 2002
Attorney Docket No. 228211US0DIV

DECISION GRANTING
PETITION

This is a decision on the petition filed January 10, 2003, to establish that page 52 of the specification was part of the originally filed application.

On October 2, 2002, the application was filed.

On November 18, 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 October 10, 2002, and advising applicants that page 52 of the specification appeared to have been omitted.

In response, the present petition was filed alleging that page 52 of the specification was deposited on October 10, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "57 pp. Specification" on October 2, 2002.[1] Petitioner has also submitted a copy of the missing documentation- page 52 of the specification.

Upon review of the record, page 52, deposited on October 2, 2002, has not been located. However, the evidence is convincing that the application papers deposited on October 2, 2002, included page 52, and that page 52 was subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of page 52 of the specification submitted with the petition will be used for examination purposes.

The petition fee of $130 will be credited to deposit account no. 15-0030.

The Notice mailed November 18, 2002, was sent in error and is hereby vacated.

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

In addition to properly submitting an itemized postcard receipt, petitioner wisely incorporated by reference the contents of application no. 09/674,507. However, reliance on the incorporation by reference is unnecessary since the postcard receipt establishes receipt of page 52 by the Office.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 2, 2002, using the application papers filed on October 2, 2002, and the copy of page 52 of the specification filed on January 10, 2002.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

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JAN 17 2003

OFFICE OF PETITIONS

In re Application of
Linley, et al.
Application No. 10/262,084
Filed: September 30, 2002
Attorney Docket No. 03141-P0394C
For: SYSTEM FOR REMOTE MONITORING AND CONTROL OF AN INSTRUMENT

: DECISION GRANTING
: PETITION

This is a decision on the petition entitled, "PETITION TO ACCORD FILING DATE TO ITEM ALLEGED OMITTED", filed November 13, 2002 (certificate of mailing date November 8, 2002), requesting, in effect, withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed November 4, 2002 . The petition will be treated under 37 CFR 1.53(e).

The application was filed on September 30, 2002. On November 4, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that drawing figure 1 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 1 be accorded a filing date of September 30, 2002 on the basis that 7 sheets of drawing figures, including drawing figure 1, were received in the Patent and Trademark Office (PTO) on September 30, 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 30, 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, including drawing figure 1, were filed on September 30, 2002. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioners' authorization, deposit account no. 19-4516 will be credited the $130.00 petition fee submitted with the instant petition.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of September 30, 2002, using the copy of drawing figure 1 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

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

INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Christopher R. Uhlik	: DECISION ON REQUEST FOR
Patent Number	: 7606192	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/262,088	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/30/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1090** 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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BINGHAM, MCCUTCHEN LLP
THREE EMBARCADERO CENTER
18 FLOOR
SAN FRANCISCO CA 94111-4067

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OFFICE OF PETITIONS

In re Application of :
Fang-Yu Lee et al. :
Application No. 10/262,098 : ON PETITION
Filed: October 2, 2002 :
Attorney Docket No. YS7042682001 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed May 16, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on January 31, 2006, for failure to timely file a reply to the final Office action mailed October 31, 2005, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The present petition under 37 CFR 1.137(b) is accompanied by a Notice of Appeal and an amendment after final rejection.

The Examiner has determined that the amendment filed with the present petition does not place the case in condition for allowance. Therefore, the Notice of Appeal filed with the petition will be entered. Deposit account no. 50-2518 has been charged in the amount of $500.00 for the Notice of Appeal.

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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 Notice of Appeal filed May 16, 2006, has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the date of this decision.

The matter is being referred to Technology Center 1625.

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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NOV 25 2008

OFFICE OF PETITIONS

In re Application of :
Abrishamkar, et al. :
Application No.: 10/262,112 : DECISION
Filing Date: 30 September, 2002 :
Attorney Docket No. 020232 :

This is a decision on the petition filed on 19 March, 2008, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) 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.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

It is unclear how and why the application went and remained abandoned so long without attention by Counsel—as is discussed hereinbelow

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to a non-final Office action mailed on 17 May, 2005, with reply due absent an extension of time on or before 17 August, 2005.

The application went abandoned after midnight 17 August, 2005.

The Office mailed the Notice of Abandonment on 9 August, 2006.

On 19 March, 2008—more than 31 months after abandonment and more than 19 months after Notice thereof—Petitioner filed the instant petition under 37 C.F.R. §1.137(b) and averring unintentional delay, with, *inter alia*, a fee, a reply in the form of an amendment and terminal disclaimer and fee as required by the Examiner, and made a statement of unintentional delay.

There is, however, no explanation of how and why the application went and remained abandoned so long without attention by Counsel.

The regulations at 37 C.F.R. §1.137(b) clearly indicate that the Office may require further showing as to the nature of the unintentional delay—and the Office seeks of Petitioner such a showing. Petitioner's attentions are directed to the guidance in the Commentary at MPEP §711.03(c) in this regard.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

---

[2] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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)
6,800,376	2004-10-05	10/262,113	2002-09-30	13DV13518

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	/mm52020/	Date (YYYY-MM-DD)	2008-11-05
Name	Mardson McQuay	Registration Number	52020

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. 6800376
Issue Date: October 5,2004
Application No. 10262113
Filed: September 30,2002
Attorney Docket No. 13DV-13518-6/11834

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 5,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 5,2008 . 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.

18 SEP 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LERNER AND GREENBERG, P.A.
PATENT ATTORNEYS AND ATTORNEYS AT LAW
Post Office Box 2480
Hollywood FL 33022-2480

In re Application of	:
Gerhard Vollmer	:
Patent No: 6,662,064	:DECISION DISMISSING PETITION
Application No. 10/262,147	:
Filed: October 1, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. Mp.-Nr. 00/550	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 17, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional application set forth in the concurrently filed amendment. It is noted that applicant provided a petition fee payment of $130.00. The correct petition fee is $1410.00. As authorized, the difference of $1280.00 will be charged to deposit account number 12-1099.

The petition is **DISMISSED**.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition fails to satisfy item (1).

The amendment submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121(b)(1)(i) and (h).

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), must be submitted.

Applicant is also advised that the term "continuing" is not proper as to a delayed § 120 benefit claim. The relationship must be "continuation" "divisional" or "continuation-in-part." (See Manual of Patent Examining Procedure 201.11.)

It is noted that the requested Certificate of Correction was previously issued by the USPTO. Based on the present decision, the entry of the Certificate of Correction was improper. Accordingly, the Certificate of Correction issued August 18, 2009 is hereby **VACATED**.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PCT Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop PCT Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0459 ATTN: Office of PCT Legal Administration

Any questions concerning this matter may be directed to Derek A. Putonen at (571) 272-3294.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

25 NOV 2009

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Lerner Greenberg Stemer, LLP
Post Office Box 2480
Hollywood FL 33022-2480

In re Application of	:	
Gerhard Vollmar	:	
Patent No: 6,662,064	:	DECISION ON PETITION
Application No. 10/262,147	:	
Filed: October 1, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. Mp.-Nr. 00/550	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed September 25, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed international application set forth in the concurrently filed application data sheet.

The renewed petition is GRANTED.

The instant application was filed September October 1, 2002. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed international application after issuance of the application into a patent. *See* MPEP 1481.03. It is noted that while MPEP 1481.03 also provides for the submission of a request for Certificate of Correction, the benefit claim under 35 U.S.C. 120 and 365 (c) is included in USPN 6,662,064, in both the front page of the patent and in the first sentence of the specification. Accordingly, a request for Certificate of Correction is unnecessary.

As 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 international application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

Any inquiries concerning this decision may be directed to Derek A. Putonen, Attorney Advisor, at (571) 272-3294.

This patented file is being forwarded to the Certificates of Correction Branch for processing the request for a Certificate of Correction.

Boris Milef
Legal Examiner
PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

25 NOV 2009

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Lerner Greenberg Stemer, LLP
Post Office Box 2480
Hollywood FL 33022-2480

In re Application of	:	
Gerhard Vollmar	:	
Patent No: 6,662,064	:	DECISION ON PETITION
Application No. 10/262,147	:	
Filed: October 1, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. Mp.-Nr. 00/550	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed September 25, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed international application set forth in the concurrently filed application data sheet.

The renewed petition is GRANTED.

The instant application was filed September October 1, 2002. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed international application after issuance of the application into a patent. *See* MPEP 1481.03. It is noted that while MPEP 1481.03 also provides for the submission of a request for Certificate of Correction, the benefit claim under 35 U.S.C. 120 and 365 (c) is included in USPN 6,662,064, in both the front page of the patent and in the first sentence of the specification. Accordingly, a request for Certificate of Correction is unnecessary.

As 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 international application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

Any inquiries concerning this decision may be directed to Derek A. Putonen, Attorney Advisor, at (571) 272-3294.

Patent No.: 6662064
Application No.: 10/262,147

This patented file is being forwarded to the Certificates of Correction Branch for processing the request for a Certificate of Correction.

Boris Milef
Legal Examiner
PCT Legal Administration

UNITED STATES 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

DICKE, BILLIG & CZAJA, PLLC
Fifth Street Towers, Suite 2250
100 South Fifth Street
Minneapolis MN 55402

COPY MAILED

MAR 12 2007

OFFICE OF PETITIONS

In re Application of :
Mark Harless et al. :
Application No. 10/262,173 : DECISION ON PETITION
Filed: September 30, 2002 : UNDER 37 C.F.R. §1.181
Attorney Docket No.: :
A126.128.101 :
Title: AUTOMATED WAFER DEFECT :
INSPECTION SYSTEM USING :
BACKSIDE ILLUMINATION :

This is a decision on the petition filed on September 11, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed September 1, 2005, 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 December 2, 2005.

Petitioner has submitted a response to the non-final Office action along with this petition, and both have been presented on the same sheet of paper. For this reason, the petition cannot be accepted, pursuant to 37 C.F.R. §1.4(c), which sets forth, *in toto*:

> Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper (emphasis added) to avoid confusion and delay in answering papers dealing with different subjects.

As such, the petition must be **DISMISSED.**

The Change of Correspondence Address has been entered and made of record.

Any reply 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. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.181." 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].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[4]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for 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. None

DICKE, BILLIG & CZAJA, PLLC
Fifth Street Towers, Suite 2250
100 South Fifth Street
Minneapolis MN 55402

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JUN 07 2007

OFFICE OF PETITIONS

In re Application of :
Mark Harless et al. :
Application No. 10/262,173 : DECISION ON RENEWED PETITION
Filed: September 30, 2002 : UNDER 37 C.F.R. §1.181
Attorney Docket No.: :
A126.128.101 :
Title: AUTOMATED WAFER DEFECT :
INSPECTION SYSTEM USING :
BACKSIDE ILLUMINATION :

This is a decision on the renewed petition filed on May 14, 2007, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed September 1, 2005, 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 December 2, 2005.

The original petition was filed on September 11, 2006, and was dismissed via the mailing of a decision on March 12, 2007. The petition could not be accepted, pursuant to 37 C.F.R. §1.4(c).

With this renewed petition, Petitioner has properly submitted the renewed petition and the response to the non-final Office action as two separate submissions.

Petitioner has asserted that the non-final Office action was never received since it was mailed to an incorrect address, and has further asserted that a Change of Address was submitted to

the Office on January 12, 2004 and April 14, 2004. Petitioner has further submitted a copy of a postcard receipt: the postcard receipt contains a date stamp, however the date stamp is not from the Office of Initial Patent Examination - it is from "OPR/FINANCE," and the date is not legible.

Petitioner has submitted copies of the two changes of address that were purportedly submitted to the Office on January 12, 2004 and April 14, 2004, and the undersigned has reviewed the electronic file. The portion of each of these submissions contains a black box at the bottom of the page, where practitioners typically place a certificate of mailing. As such, it appears that the certificate of mailing on each of these submissions has been redacted. Since these fields have been blackened out, the Office cannot determine the contents thereof.

As such, the petition must be **DISMISSED**.

Any reply 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. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.181." This is not a final agency action within the meaning of 5 U.S.C 704.

On renewed petition, it is recommended that Petitioner provide a copy of this assignment, minus the redaction[1] of what is most likely the certificate of mailing. Petitioner is reminded that pursuant to Rule §1.8(b)(3), a statement from the individual who executed the certificate of mailing(s) will be required.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything

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1 **It is possible that Petitioner unintentionally redacted this material via the highlighting of these portions of the papers, and the highlighted portions appear blackened out in the electronic copy.** If such is the case, Petitioner may wish to refrain from highlighting these portions with any future submission.

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

4 (571) 273-8300- please note this is a central facsimile number.

else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[5]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

5 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. None

DICKE, BILLIG & CZAJA, PLLC
Fifth Street Towers, Suite 2250
100 South Fifth Street
Minneapolis MN 55402

COPY MAILED

SEP 12 2007

OFFICE OF PETITIONS

In re Application of :
Mark Harless et al. :
Application No. 10/262,173 : DECISION ON SECOND RENEWED
Filed: September 30, 2002 : PETITION UNDER
Attorney Docket No.: : 37 C.F.R. § 1.181
A126.128.101 :
Title: AUTOMATED WAFER DEFECT :
INSPECTION SYSTEM USING :
BACKSIDE ILLUMINATION :

This is a decision on the second renewed petition filed on August 9, 2007, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed September 1, 2005, 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 December 2, 2005.

An original petition was filed on September 11, 2006, and was dismissed via the mailing of a decision on March 12, 2007. The petition could not be accepted, pursuant to 37 C.F.R. § 1.4(c).

A renewed petition was filed on May 14, 2007, where Petitioner asserted that the non-final Office action was never received since it was mailed to an incorrect address, and further asserted that a Change of Address was submitted to the Office on January 12, 2004 and April 14, 2004. The renewed petition was

dismissed via the mailing of a decision on June 7, 2007. The decision set forth, in pertinent part:

> Petitioner has submitted copies of the two changes of address that were purportedly submitted to the Office on January 12, 2004 and April 14, 2004, and the undersigned has reviewed the electronic file. The portion of each of these submissions contains a black box at the bottom of the page, where practitioners typically place a certificate of mailing. As such, it appears that the certificate of mailing on each of these submissions has been redacted. Since these fields have been blackened out, the Office cannot determine the contents thereof.
>
> Emphasis included

With this renewed petition, Petitioner has submitted a copy of the change of address request, and it appears to contain a certificate of mailing dated January 12, 2004.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a change of address was submitted to the Office on January 12, 2004 (and not entered). Consequently, the Office communication of September 1, 2005 was mailed to the wrong address.

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, received with the original petition on September 11, 2006, 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

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

DICKE, BILLIG & CZAJA, PLLC
Fifth Street Towers, Suite 2250
100 South Fifth Street
Minneapolis, MN 55402

Mail Date: 04/21/2010

Applicant	: Mark Harless	: DECISION ON REQUEST FOR
Patent Number	: 7629993	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/262,173	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/30/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2125** 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
DRW 12-02

Paper No. 4

DENNIS M. FLAHERTY, ESQ.
OSTRAGER CHONG & FLAHERTY LLP
30TH FLOOR
825 THIRD AVENUE
NEW YORK NY 10022-7519

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DEC 1 0 2002

OFFICE OF PETITIONS

In re Application of :
John H. Schneider :
Application No. 10/262,174 : ON PETITION
Filed: 7 November, 2002 :
Attorney's Docket No. ITW-13800 :

This is a decision on the petition styled under 37 CFR 1.182 and filed on 7 November, 2002, requesting that the above-identified application be accorded a filing date of 7 November, 2002, with 19 pages of specification, including claims and one (1) page of abstract as a part of the original disclosure.

The petition is granted.

The application was filed on 1 October, 2002. The original disclosure consisted of 19 pages of specification, including one page of abstract, bearing docket No. ITW-13780, and three sheets of drawings. The present petition was filed on 7 November, 2002 (certificate of mailing date 30 October, 2002). On 1 November, 2002, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that Figures 5-7 appeared to have been omitted from the application.

Petitioner states that the application was inadvertently filed with the wrong specification, and requests that the application be accorded a later filing date with the correct specification. A copy of the desired specification, consisting of 19 pages, including one (1) page of abstract, bearing docket No. ITW-13800, the same docket number found on the application transmittal sheet deposited on 1 October, 2002, accompanies the petition.

In accordance with applicant's request, the application will be processed and examined with a filing date of 7 November, 2002, the date of receipt of the correct specification, using the specification and claims filed on 7 November, 2002, and the three (3) sheets drawings deposited on 1 October, 2002. The 19 pages of specification and abstract filed on 1 October, 2002, will not be used for processing or examination, but will be retained in the application file.

As the Notice mailed on 1 November, 2002, correctly stated that Figures 5-7 appeared to have been omitted from the application, the Notice will not be withdrawn.

Petitioner is reminded that a new oath or declaration in compliance with 37 CFR 1.63 and 1.64 covering the newly submitted items is required.

The application is being returned to the Office of Initial Patent Examination for reprocessing with a filing date of 7 November, 2002, using the application papers filed on that date and the 19 pages of specification, including one (1) page of abstract, filed on 7 November, 2002.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100127

DATE : January 08, 2010

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 6,977,267

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
TECHNOLOGY CENTER 1600

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. 10

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
2421 N.W. 41ST STREET
SUITE A-1
GAINESVILLE FL 32606-6669

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MAR 04 2003

OFFICE OF PETITIONS

In re Application of	:
Crisanti and Esseghir	: DECISION REFUSING STATUS
Application No. 10/262,209	: UNDER 37 CFR 1.47(a)
Filed: 30 September, 2002	:
Atty Docket No. GJE-6703	:
	:

This is in response to the petition filed under 37 CFR 1.47(a) on 24 January, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 30 September, 2002, without an executed oath or declaration. Accordingly, on 24 October, 2002, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing.

In response, on 24 January, 2003 (certificate of mailing 24 January, 2003), petitioners filed the present petition, along with, *inter alia*, a petition extension of time and a declaration naming Andrea Crisanti and Selma Esseghir as joint inventors and signed by joint inventors Crisanti on behalf of herself and joint inventor Esseghir.
Petitioners state that joint inventor Esseghir refuses to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1). In regards to item (1), petitioners have not provided proof that Esseghir was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration). The showing of record is that although the declaration and an assignment were ever sent to non-signing inventor Esseghir, the application papers were never sent to her. Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

---

[1] MPEP 409.03(d).

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 13

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
2421 N.W. 41ST STREET
SUITE A-1
GAINESVILLE FL 32606-6669

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JUN 16 2003

OFFICE OF PETITIONS

In re Application of :
Crisanti and Esseghir : DECISION ACCORDING STATUS
Application No. 10/260,709 : UNDER 37 CFR 1.47(a)
Filed: 30 September, 2002 :
Atty Docket No. GCE-6703 :
:

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 10 June, 2003 (certificate of mailing date 4 June, 2003).

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been mailed a copy of the application papers. Specifically, petitioners have established that a copy of the application was sent to the non-signing inventor, Selma Esseghir. Additionally, petitioners have included a copy of an E-mail sent by Dr. Esseghir in which she confirms receipt of the application but states that she is refusing to sign the declaration.

The Office is construing the statement "I therefore enclose a copy of [the] specification" in the letter from Mr. T.W.S. Tapp to the non-signing inventor to mean that a copy of the application as filed was included with the letter to the nonsigning inventor. Petitioners **must** inform the Office if this is an incorrect interpretation.

[illegible] 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.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

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

Dr. Selma Esseghir
Chester Beatty Laboratories
Breast Cancer Research Centre
237 Fulham Road
London SW3 6JB
UNITED KINGDOM

COPY MAILED

JUN 16 2003

OFFICE OF PETITIONS

In re Application of
Crisanti et al.
Application No. 10/262,209
Filed: 30 September, 2002
For: COMPOSITIONS FOR DRUG DELIVERY

Dear Dr. Esseghir:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
2421 N.W. 41ST STREET
SUITE A-1
GAINESVILLE FL 32606-6669

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

C. DouglassThomas
BEYER WEAVER & THOMAS LLP
P.O. Box 70250
Oakland, CA 94612-0250

MAILED

APR 15 2005

Technology Center 2100

In re Application of:
Klimenty Vainstein et al.
Application No. 10/262,218
Filed: September 30, 2002
For: DOCUMENT SECURITY SYSTEM THAT PERMITS EXTERNAL USERS TO GAIN ACCESS TO SECURED FILES

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed January 12, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

for

Vincent N. Trans
Special Program Examiner
Technology Center 2100
(571) 272-3613

cc: John S. Ferrell at Carr & Ferrell LLP
2200 Geng Road
Palo Alto, CA 94303

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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CARR & FERRELL, LLP
2200 GENG ROAD
PALO ALTO, CA 94303

COPY MAILED
MAR 30 2007
OFFICE OF PETITIONS

RECEIVED
MAR 30 2007
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CANCELLED

In re Application of
Kilmenty Vainstein
Application No. 10/262,218
Filed: September 30, 2002
Attorney Docket No. PA2925US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 20, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the firm of Carr & Ferrell, LLP, has been revoked by the assignee, Guardian Data Storage, LLC, of the patent application on February 16, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Sterne, Kessler, Goldstein & Fox, PLLC
1100 New York Avenue, NW
Washington, DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 8

MARSH FISCHMANN & BREYFOGLE LLP
SUITE 411
3151 SOUTH VAUGHN WAY
AURORA CO 80014

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JUL 3 1 2003

OFFICE OF PETITIONS

In re Application of :
HUGE et al. :
Application No. 10/262,248 : ON PETITION
Filed: October 1, 2002 :
Attorney Docket No. 50050-00022 :

This is a decision on the petition under 37 CFR 1.137(b)/(f), filed May 9, 2003, to accept an unintentionally delayed notification of the filing in a foreign country of an application directed to the invention disclosed in the subject application.

The petition is **GRANTED**.

The present nonprovisional application became the subject of an application filed in the PCT Office designating foreign countries on February 6, 2003. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

Therefore, pursuant to the provisions of 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The Office has processed the request to rescind the previous nonpublication request. A Notice Regarding Rescission of Nonpublication Request and Notice of Foreign Filing setting forth the projected publication date, November 6, 2003, accompanies this decision on petition.

The application file is being forwarded to Technology Center 3700.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Notice Regarding Rescission of Nonpublication Request and Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
PO BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 10

MARSH FISCHMANN & BREYFOGLE LLP
SUITE 411
3151 SOUTH VAUGHN WAY
AURORA CO 80014

COPY MAILED

JUL 3 1 2003

OFFICE OF PETITIONS

In re Application of :
HUGE et al. :
Application No. 10/262,248 : ON PETITION
Filed: October 1, 2002 :
Attorney Docket No. 50050-00022 :

This is a decision on the petition filed February 13, 2003, requesting that the above-identified application be accorded a filing date of October 1, 2002.

The petition is **dismissed as moot.**

The United States Patent and Trademark Office records indicate that the above-identified application has been accorded a filing date of October 1, 2002. Thus, the petition is moot.

The application file is being forwarded to Technology Center 3700.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 7/30/06

DATE : Dec. 6, 2005

TO SPE OF : ART UNIT 2165 (*Jeffrey Gaffin*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,898,587

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.
Please see the Related US Application Data. Your denial or approval decision is needed below.

sp STACY POWELL

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 x120

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:
Does Not affect Scope of claim

SPE 2165
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

IBM Corporation - M/S P386
2455 South Road
Poughkeepsie, NY 12601

COPY MAILED

MAR 17 2006

OFFICE OF PETITIONS

In re Application of Farrell et al. :
Application No. 10/262,311 : Decision on Petition
Filing Date: September 30, 2002 :
Attorney Docket No. POU9-2002-0029 :

This is a decision on the petition filed January 27, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

The above-identified application was deemed abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed May 4, 2005, which set a statutory period for reply of three (3) months. A reply was not received. Accordingly, the above-identified application was deemed abandoned as of July 5, 2005. A Notice of Abandonment was mailed on November 28, 2005.

Petitioner contends the May 4, 2005 papers were not received.

Per 711.03(c)(I)(A):

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner has not supplied a statement attesting to the fact that a search of the file jacket has been performed. Therefore, the petition cannot be granted at this time.

Petitioner should supply a statement that a search of the physical file wrapper has been performed.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. 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 facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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2455 South Road
Poughkeepsie, NY 12601

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AUG 0 2 2006

OFFICE OF PETITIONS

In re Application of Farrell et al. :
Application No. 10/262,311 : Decision on Petition
Filing Date: September 30, 2002 :
Attorney Docket No. POU9-2002-0029 :

This is a decision on the renewed petition filed May 19, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **granted**.

The above-identified application was deemed abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed May 4, 2005, which set a statutory period for reply of three (3) months. A reply was not received. Accordingly, the above-identified application was deemed abandoned as of July 5, 2005. A Notice of Abandonment was mailed on November 28, 2005.

Petitioner contends, and has established, the papers mailed by the Office on May 4, 2005, were never received.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

A new Notice of Allowance and Fee(s) Due will be mailed and the period for reply will be re-started. Since petitioner did not receive the Notice of Allowance, it is presumed petitioner did not receive the Notice of Allowability or other papers mailed May 4, 2005. Therefore, both the Notice of Allowance and Notice of Allowability mailed on May 4, 2005, are vacated.

Technology Center Art Unit 2111 will be informed of the instant decision and the Technology Center's technical support staff will mail a new Notice of Allowance, Notice of Allowability, and new copies of all other papers mailed May 4, 2005. The time period for responding to the new Notice of Allowance will be set to run from the mailing date of the new Notice of Allowance.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Paper No. 14

DENNIS J. DUPRAY
1801 BELVEDERE STREET
GOLDEN, CO 80401

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SEP 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Dupray et al. :
Application No. 10/262,338 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. 1003-3 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 2, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed March 23, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 24, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached Issue Fee Transmittal Form should be completed and returned to the Publishing Division within **ONE MONTH** from the mail date of this decision.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The file is now being forwarded to Technology Center 3600 for consideration of the concurrently filed Amendment under 37 CFR 1.312.

Telephone inquiries should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after September 28, 2004 should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: DENNIS J. DUPRAY
1560 BROADWAY, SUITE 1200
DENVER, CO 80202

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DENNIS J. DUPRAY
1801 BELVEDERE STREET
GOLDEN, CO 80401

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OFFICE OF PETITIONS

In re Application of :
Dennis Dupray et al :
Application No. 10/262,338 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. 1003-3

This is a decision on the petition, filed January 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 July 2, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 3662 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[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. 23

DENNIS J. DUPRAY
1801 BELVEDERE STREET
GOLDEN, CO 80401

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MAR 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Dupray et al..	:	
Application No. 10/262,338	:	DECISION GRANTING PETITION
Filed: September 30, 2002	:	UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 1003-3	:	UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 14, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on September 30, 2003 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. §§ 120 and 365(c) and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 365(c) and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

The application is being forwarded to Technology Center Art Unit 3662 for appropriate action on the amendment submitted February 14, 2005, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 365(c) and 37 CFR 1.78(a)(2) for the benefit of the prior-filed 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

ATTACHMENT: Corrected Filing Receipt

Cc: DENNIS J. DUPRAY
1560 BROADWAY, SUITE 1200
DENVER, CO 80202-5141

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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
Andrew Arthur BERLIN
Application No. 10/262,349
Filed: September 30, 2002
Attorney Docket No. 07070008200

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 23, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Peter J. Davis on behalf of all attorneys of record who are associated with customer No. 25227.

All attorneys/agents associated with the Customer Number 25227 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: ANDREW ARTHUR BERLIN
1789 DALTON PLACE
SAN JOSE, CA 95124

cc: RAJ S. DAVE, PH.D
DARBY & DARBY P.C.
1500 K STREET, N.W.
SUITE 250
WASHINGTON, D.C. 20005-1714

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OFFICE OF PETITIONS

Client 21058
c/o Darby & Darby P.C.
P.O. Box 770
Church Street Station
New York, NY 10008-0770

In re Application of :
Andrew Arthur Berlin, et al. :
Application No. 10/262,349 : DECISION ON PETITION
Filed: September 30, 2002 : TO WITHDRAW
Attorney Docket No. 21058/0206510-US0 : 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 10, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Client 21058 c/o Darby & Darby P.C. has been revoked by the assignee of the patent application on August 19, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Pillsbury Winthrop Shaw Pittman, LLP**
P.O. Box 10500
McLean, VA 22102

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OFFICE OF PETITIONS

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

In re Application of :
Jamil, et al. :
Application No.: 10/262,363 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No: 42390.P14606 :

This is in response to the petition under 37 CFR 1.137(b) filed August 7, 2007.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the non-final Office action mailed October 5, 2006. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A proper response was not received within the allowable period and the application became abandoned on January 6, 2007. A Notice of Abandonment was mailed on July 26, 2007.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (1) above.

A proper response to the non-final Office action did not accompany the petition. A Request for Continued Examination is not a proper response to a non-final Office action. To be considered grantable, the renewed petition must be accompanied by an amendment or a continuing 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) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Lawrence M. Mennemeier
Intellevate LLP
PO Box 52050
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Larry Mennemeier
Inter Corporation
c/o Intellevate
P.O. Box 52050
Minneapolis MN 55402

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OFFICE OF PETITIONS

In re Application of :
Jamil, et al. :
Application No.: 10/262,363 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No: 42390.P14606 :

This is in response to the renewed petition under 37 CFR 1.137(b) filed March 15, 2008.

The renewed petition is GRANTED.

This application became abandoned for failure to respond in a timely manner to the non-final Office action mailed October 5, 2006. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A proper response was not received within the allowable period and the application became abandoned on January 6, 2007. A Notice of Abandonment was mailed on July 26, 2007. A petition under 37 CFR 1.137(b) was first filed on August 7, 2007, and dismissed by a decision mailed January 16, 2008.

The amendment filed March 15, 2008, is noted.

The amount of $790.00 for the Request for Continued Examination that was prematurely filed will be refunded to deposit account 50-0221.

The application is being forwarded to Technology Center 2100, GAU 2185 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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Paper No. 9

JACKSON WALKER
SUITE 2100
112 E. PECAN STREET
SAN ANTONIO, TX 78205

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SEP 0 8 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
John D. Reid et al :
Application No. 10/262,366 :
Filed: October 1, 2002 :
Attorney Docket No. P-6485.05 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 22, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 14, 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 October 15, 2003.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.[1]

The application file is being forwarded to Technology Center AU 3683.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Effective September 27, 2004, the phone number will be 571-272-3220.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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LUEDEKA, NEELY & GRAHAM, P.C.
P O BOX 1871
KNOXVILLE, TN 37901

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OFFICE OF PETITIONS

In re Application of

Barry Kent Voorhies

Application No. 10/262,373

Filed: October 1, 2002

Attorney Docket No. 55971.C1

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 18, 2006, 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 23, 2005, which set a shortened statutory period for reply of three-months from its mailing date. A response was filed on April 14, 2006, with a request for an extension of time within the first month. An Advisory Action mailed July 13, 2006, indicated that the April 14, 2006, response failed to place the application in condition for allowance. The application became abandoned on April 24, 2006.

The Request for Continued Examination filed September 18, 2006, is noted.

The request for an extension of time within the second month filed September 18, 2006, is noted but cannot be granted as the request was made outside the maximum statutory period for reply to the final Office action. Deposit account 12-2355 will be refunded $225.00, in due course.

The application file is being forwarded to Technology Center 3600, GAU 3634 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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COMMISSIONER FOR PATENTS
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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

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OFFICE OF PETITIONS

In re Application of :
Engel Roza :
Application No. 10/262,387 : ON PETITION
Filed: October 1, 2002 :
Attorney Docket No. NL 010676 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on September 7, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed April 14, 2006. A Notice of Abandonment was mailed on August 18, 2006.

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 application. However, in accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

As authorized, the $1,500 petition fee for treatment of the instant petition 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 $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Change of Correspondence Address filed August 11, 2006, has been accepted and made of record. However, the address given on the petition differs from the address of record. Therefore, a courtesy copy of this decision is being mailed to the address given on the petition. Thereafter, the Office will mail all future correspondence solely to the address of record.

This application file is being referred to the Office of Publications to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Michael J. Ure
Philips Electronics North America Corp.
1109 McKay Drive, MS41-SJ
San Jose, CA 95131

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HITT GAINES, P.C.
P.O. BOX 832570
RICHARDSON, TX 75083

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OFFICE OF PETITIONS

In re Patent No. 6,838,557 :
Issue Date: January 4, 2005 :
Application No. 10/262,388 : ON PETITION
Filed: October 1, 2002 :
Patentee(s): Zoltan Kovacs, et. al. :

This is a decision on the petition filed by facsimile transmission on October 17, 2005, which is being treated as a request under 37 CFR 3.81[1], to correct the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] *See Official Gazette of June 22, 2004*

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Paper No. 6

TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
Robert K. Rowe :
Application No. 10/262,403 : NOTICE
Filed: September 30, 2002 :
Attorney Docket No. 020204-000300US :

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 3737.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Robert K. Rowe	: DECISION ON REQUEST FOR
Patent Number	: 7613504	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/262,403	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/30/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1189** 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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DENNIS J. DUPRAY
1801 BELVEDERE STREET
GOLDEN CO 80401

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OFFICE OF PETITIONS

In re Application of :
Dupray et al. :
Application No. 10/262,413 : DECISION ON PETITION
Filed: 30 September, 2003 :
Atty Docket No. 1003-2 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed on 14 February, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional applications set forth in the concurrently filed 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.

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The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional applications 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 was co-pending with prior-filed Application No. 09/194,367, which is an application filed under 35 U.S.C. § 371 of International Application No. PCT/US97/15892, filed on 8 September, 1997. The international application was filed within twelve months of the filing date of provisional Application Nos. 60/056,590, filed on 20 August, 1997; 60/044,821, filed on 25 April, 1997, and 60/025,855, filed on 9 September, 1996, 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 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)(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 applications 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 applications under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and

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determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 3662 for appropriate action on the amendment submitted 14 February, 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 Nos. 60/056,590, 60/044,821, and 60/025,855.

Frances Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Paul Petrus *et al.*
Application No. 10/262,422
Filed: September 30, 2002
Attorney Docket No. 42P28172

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 C.F.R. 1.313(b)

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 C.F.R. 1.313.

The above-identified application is hereby withdrawn from issue.

Patent and Trademark Office records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

Telephone inquiries should be directed to David Payne at (571) 272-4650.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Mark Powell, Director
Technology Center 2600

CC: Office of Publications

Patent Clerk, South Tower, Room 08C15
Supervisory Correspondence Clerk, South Tower, Room 08C15

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P.O. BOX 832570
RICHARDSON TX 75083

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OFFICE OF PETITIONS

In re Patent No. 6,852,854 :
Issued: February 8, 2005 :
Application No. 10/262,454 : ON PETITION
Filed: October 1, 2002 :
Attorney Docket Number: MACR-0005 :

This is a decision on the petition, filed October 17, 2005, under 37 CFR 1.323 and 37 CFR 1.183, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the front of the Patent.

The petition is **GRANTED**.

Petitioner states that the correct assignees are "Board of Regents, The University of Texas" and "Macrocyclics", and that the failure to include the correct assignee names on the Fee(s) Transmittal form PTOL-85(b) was an inadvertent error. 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 was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that both the "Board of Regents, The University of Texas" and "Macrocyclics" are the assignees of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

---

[1] *See* Official Gazette of June 22, 2004

A review of the record indicates that the certificate of correction was mailed February 10, 2006.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROGITZ & ASSOCIATES
750 B STREET, SUITE 3120
SAN DIEGO, CA 92101

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OFFICE OF PETITIONS

In re Application of :
Robert Allan Unger : DECISION ON PETITION
Application No. 10/262,465 : UNDER 37 CFR 1.137(b)
Filed: September 30, 2002 :
Attorney Docket No. 50R4860 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 25, 2004, to revive the above-identified application. The petition is also being treated as a petition under 37 CFR 1.8(b) to withdraw the holding of abandonment.

The petition under 37 CFR 1.8(b) is **dismissed**.

The petition under 37 CFR 1.137(b) is **granted**.

The above-identified application was held abandoned for failure to reply in a timely manner to the non-final Office action mailed March 29, 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 30, 2004. A Notice of Abandonment was mailed on October 18, 2004.

AS TO THE PETITION UNDER 37 CFR 1.8(b):

Issue

Petitioner states that a reply to the March 29, 2004 non-final Office action was in fact timely filed. In support of this allegation, petitioner has proffered a copy of an "Auto-Reply Facsimile Transmission" which shows the first page of a communication entitled "Response to Office Action" to evidence the timely filing of a reply to the outstanding Office action.

Applicable Rule

37 CFR 1.8(b) states:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.
> (c) The Office may require additional evidence to determine if the correspondence was timely filed.

Opinion

The petition fails to satisfy item (2) above in that a copy of the certificate of facsimile transmission has not been submitted. Petitioner's attention is also directed to the "Auto-reply Facsimile Transmission," which advises applicants to use the certificate of facsimile transmission procedures set forth in 37 CFR 1.8(a) and (b) and 37 CFR 1.6(f).

It is petitioner's burden to supply, under the rules of practice, the evidence required by the rules to establish the timely mailing of the reply. As pointed out in Krahn v. Commissioner of Patents and Trademarks, 15 USPQ2d 1823, at page 1825:

> The certificate of mailing procedure set out in the PTO regulations were specifically designed to provide patent applicants with a clear procedure to protect themselves from exactly the situation which has arisen in this case.

In view of the above, this application is deemed to have been held properly abandoned for failure to timely reply to the non-final Office action mailed March 29, 2004, within the time period set therein.

AS TO THE PETITION UNDER 37 CFR 1.137(b)

The petition satisfies the requirements for a grantable petition under 37 CFR 1.137(b) in that the reply; the petition fee of $1,370; and the required statement of unintentional delay have been submitted. Accordingly, the reply to the non-final Office action of March 29, 2004 is accepted as having been unintentionally delayed.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2137.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

10/262/481

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-9-06

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction on Patent No.: 6753220

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

2812
Art Unit

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JOHN G. CHUPA
LAW OFFICE OF JOHN CHUPA & ASSOCIATES, P.C.
28535 ORCHARD LAKE ROAD
SUITE 50
FARMINGTON HILLS MI 48334

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OFFICE OF PETITIONS

In re Application of :
Joseph Wycech :
Application No. 10/262,493 : DECISION ON PETITION
Filed: 1 October, 2002 :
Atty Docket No. 329-004 :

This is a decision on the petition filed on 28 February, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 2 November, 2005, for failure to file a proper reply to the final Office action mailed on 1 July, 2005, which set a three (3) month shortened statutory period for reply. On 10 November, 2005 (certificate of mailing date 1 November, 2005), petitioner filed a one (1) month

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

extension of time and an amendment after final rejection. The amendment did not place the application in *prima facie* condition for allowance, however, and an Advisory Action was mailed on 2 December, 2005. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner has filed a Notice of Appeal as the required reply.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

The Notice of Appeal filed 28 February, 2006, has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] The three-month extension request filed on 28 February, 2006, was submitted more than six (6) months after the end of the period for reply to the Office communication mailed on 1 July, 2005, and therefore is unnecessary. The extension of time fee paid on 28 February, 2006, will be credited to counsel's deposit account, as authorized.

This application is being referred to Technology Center Art Unit 3635 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[2] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Steven K. Spaderna
261 Deerfield Drive
Berlin, CT 06037

In re Application of
Glennda Smithson, Isabelle Millet, John Peyman, Ramesh Kekuda, Jingfang Ju, Li Li, Xiaojia Sasha Guo, Meera Patturajan, Kimberly Spytek, Shlmoit Edinger, Karen Ellerman, Uriel Malyankar, Tatiana Ort, Linda Gorman, Bryan Zerhusen, David Anderson, Mei Zhong, Elina Catterton, Weizhen Ji, Charles Miller, Luca Rastelli, David Stone, Carol Pena, Suresh Shenoy, Richard Shimkets, Mark Rothenberg, Martin Leach, Michelle Agee, Constance Berghs, Vincent Dippo, Andrew Eisen, Esha Gangolli, Daniel Rieger, and Steven Spaderna
Application No.10/262,511
Filed: October 1, 2002
Attorney Docket Number: 21402-462C (Cura762C)
Title of Invention: NOVEL PROTEINS AND NUCLEIC ACIDS ENCODING SAME

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

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OFFICE OF PETITIONS

Dear Mr. Spaderna:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. § 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

Ivor R. Elrifi
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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Paper No. 4

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

In re Application of
Glennda Smithson, Isabelle Millet, John Peyman, Ramesh Kekuda, Jingfang Ju, Li Li, Xiaojia Sasha Guo, Meera Patturajan, Kimberly Spytek, Shlmoit Edinger, Karen Ellerman, Uriel Malyankar, Tatiana Ort, Linda Gorman, Bryan Zerhusen, David Anderson, Mei Zhong, Elina Catterton, Weizhen Ji, Charles Miller, Luca Rastelli, David Stone, Carol Pena, Suresh Shenoy, Richard Shimkets, Mark Rothenberg, Martin Leach, Michelle Agee, Constance Berghs, Vincent Dippo, Andrew Eisen, Esha Gangolli, Daniel Rieger, and Steven Spaderna
Application No.10/262,511
Filed: October 1, 2002
Attorney Docket Number: 21402-462C (Cura762C)
Title of Invention: NOVEL PROTEINS AND NUCLEIC ACIDS ENCODING SAME

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

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OFFICE OF PETITIONS

This is in response to the petition under 37 CFR 1.47(a), filed May 28, 2003.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of George Yahwak attest a copy of the application was sent to non-signing inventor's last known address via certified return receipt. Petitioner has provided sufficient evidence to establish the papers were received by non-signing inventor. The non-signing inventor's failure to respond to the application sufficiently establishes that he refuses to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MCCARTER & ENGLISH, LLP
FOUR GATEWAY CENTER
100 MULBERRY STREET
NEWARK NJ 07102

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OCT 1 1 2005

OFFICE OF PETITIONS

In re Application of :
Xio et al. :
Application No. 10/262,513 : ON PETITION
Filed: 30 September, 2002 :
Atty Docket No. GYN-0068 :

This is in response to the petition filed 10 March, 20005, to withdraw the holding of abandonment of the above-identified application.

This application is in an abandoned status for failure to respond in a timely and effective manner to the Notice of Allowance mailed on 11 August, 2004, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on 10 January, 2005.

Petitioner asserts that the Notice of Allowance dated 11 August, 2004, was not received. In the absence of any irregularity in the mailing of the Notice of Allowance, there is a strong presumption that the Notice of Allowance was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Notice of Allowance was not in fact received. The showing required to establish the failure to receive 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.[1] The showing outlined above may not be sufficient if there are circumstances

[1] See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A review of the record indicates that the Notice of Allowance was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Notice of Allowance on the part of the United States Patent and Trademark Office.

In support of the petition, the petitioner has submitted copies of the docket records where the non-received Notice of Allowance would have been entered had it been received, and a statement from the practitioner stating that a search of the office, the application file, and docket records indicated that the Notice of Allowance was not received.

The petitioner has made a sufficient showing of non-receipt of the Notice of Allowance based upon the mail log and docket records submitted and upon the statement from the practitioner. Accordingly, the application was not abandoned in fact.

The petition is **GRANTED.**

A Notice of Allowability was also mailed with the Notice of Allowance on 11 August, 2005. Since it has been concluded that petitioner did not receive the Notice of Allowance, it is also presumed that petitioner did not receive the Notice of Allowability of 11 August, 2005. The Notice of Allowance and Notice of Allowability mailed on 11 August, 2005, are hereby vacated. The application file is being forwarded to the Technology Center's support staff for mailing of a new Notice of Allowance and Notice of Allowability. The time period for response will be set to run from the date the new Notices are mailed.

The application file will be forwarded to Technology Center Art Unit 3739 for mailing of the new Notices.

Telephone inquiries concerning this matter may be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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OFFICE OF PETITIONS

In re Application of :
Ronald J. Franklin et al :
Application No. 10/262,524 : DECISION ON PETITION
Filed: October 1, 2002 : TO WITHDRAW
Attorney Docket No. 09487-016002 : 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 25, 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 G. Roger Lee on behalf of all attorneys 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 first address indicated below.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

David Bucci
Petitions Examiner
Office of Petitions

cc: R. Steven Thing
Neutar, LLC
P.O. Box 399
Bowdoinham, ME 04008

cc: Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/262,524	10/01/2002	Ronald J. Franklin	09487-016002

CONFIRMATION NO. 2870

OC000000018662327

OC000000018662327

26161
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Date Mailed: 05/02/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/25/2005.

- 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.

IRVIN DINGLE
OP (571) 272-3210

FORMER ATTORNEY/AGENT COPY

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 8

Randy J. Pritzker
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Aveneu
Boston MA 02210

MAIL

SEP 27 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Chin F. Chan, et al.
Application No. 10/262,550
Filed: October 1, 2002
For: **REMOTE DATA ACCESS**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed May 10, 2004.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism, must include the petition fee under 37 CFR 1.17(i). The petition must also be accompanied by a statement explaining how the invention contributes to countering terrorism. Examples of the types of technology for countering terrorism are set forth in MPEP 708.02, XI as including, but not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

The statements made in the petition show how the technology of the instant application directly contributes to the countering of terrorism.

Accordingly, the petition is **GRANTED**.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

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Paper No. 8

MAIL

AUG 24 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

D.C. Peter Chu
Christensen, O'Conner, Johnson, Kindness, PLLC
1420 Fifth Avenue
Suite 2800
Seattle, WA 98101-2347

In re Application of:
L.G. MEREDITH et al.
Application No. 10/262,551
Filed: September 30, 2002
For: SAFE INTEROPERABILITY AMONG WEB SERVICES

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed 09 July 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.

The petition is deficient in that there is no statement that if the Office determines that all the claims presented are not obviously directed to a single invention, Applicant will make an election without traverse as a prerequisite to the grant of special status, as required by section (b).

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.

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

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CHRISTENSEN O'CONNOR JOHNSON
KINDNESS PLLC
1420 Fifth Avenue, Suite 2800
Seattle, Washington 98101

MAILED

MAR 2 3 2006

TECHNOLOGY CENTER 2100

In re Application of:
G. MEREDITH, et al.
Application No. 10/262,551
Filed: September 30, 2002
For: SAFE INTEROPERABILITY AMONG WEB SERVICES

DECISION ON PETITION TO MAKE SPECIAL

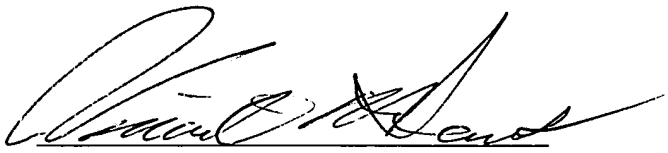
This is a decision on the renewed petition, filed on 21 October 2004 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(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 submissions of 24 August 2004 and 21 October 2004 meet all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.



Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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SUITE 355
HOUSTON, TX 77040

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JAN 27 2005

OFFICE OF PETITIONS

In re Application of :
Craig C. Andrews et al :
Application No. 10/262,558 : NOTICE
Filed: September 30, 2002 :
Attorney Docket No. LYNN/0095.A :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication 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
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. 4

SILICON VALLEY PATENT GROUP LLP
2350 MISSION COLLEGE BOULEVARD
SUITE 360
SANTA CLARA CA 95054

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FEB 24 2003

OFFICE OF PETITIONS

In re Application of	:	
Williams et al.	:	DECISION GRANTING
Application No. 10/262,567	:	PETITION
Filed: September 29, 2002	:	
Attorney Docket No. AAT007 US	:	

This is a decision on the petition under 37 CFR 1.10(c), filed December 2, 2002, requesting that the above-identified application be accorded a filing date of September 29, 2002, rather than the presently accorded filing date of September 30, 2002.

Petitioner alleges that the application was deposited in Express Mail service on September 29, 2002. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. ET887719041US. The "date-in" indicated on the Express Mail label is September 29, 2002. Additionally, the Express Mail label contains a United States Postal Service (USPS) stamp of September 29, 2002. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**. No petition fee is necessary.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to September 29, 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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Paper No. 7

RAMON L. PIZARRO
3515 SOUTH TAMARAC DRIVE, SUITE 200
DENVER, CO 80237

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MAR 1 0 2004

OFFICE OF PETITIONS

In re Application of :
Krissa Sherman, et al. :
Application No. 10/262,568 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed February 23, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b).**" This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The replacement drawings, as required by the Notice To File Missing Parts of Nonprovisional Application mailed November 1, 2002 under 37 CFR 1.84 and 37 CFR 1.121, were not submitted with the instant petition. This application cannot be revived until acceptable drawings have been submitted. For applicant's convenience, a copy of the Notice To File Missing Parts of Nonprovisional Application, is enclosed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

By facsimile: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Notice To File Missing Parts of Nonprovisional Application

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No. 10

RAMON L. PIZARRO
3515 SOUTH TAMARAC DRIVE, SUITE 200
DENVER, CO 80237

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MAR 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Krissa Sherman, et al. :
Application No. 10/262,568 : ON PETITION
Filed: September 30, 2002 :
Attorney Docket No. N/A :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 24, 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. 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 application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Ramon L. Pizarro
3515 South Tamarac Drive, Suite 200
Denver, CO 80237

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MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of

Sherman, et al.

Application No. 10/262,568

Filed: September 30, 2002

Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), December 13, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $700.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed September 5, 2006. The Notice set forth a three (3) month statutory period for reply. The issue fee was not received within the allowable period. Accordingly, this application became abandoned on December 6, 2006. A Notice of Abandonment was mailed February 20, 2007.

The issue fee was received on December 13, 2006.

Form PTOL-85B, filed December 13, 2006, is noted and made of record.

The application is being directed to the Office of Patent Publications for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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GARY L. EASTMAN
Gary L. Eastman, APLC
401 W. "A" Street, Suite 1785
SAN DIEGO, CA 92101

MAILED

JUN 03 2010

OFFICE OF PETITIONS

In re Patent No. **6,826,873**
Issue Date: December 7, 2004
Application No. 10/262,582
Filed: September 30, 2002
Attorney Docket No.

DECISION ON PETITION
UNDER 37 CFR 1.378(c)

This is a decision on the petition under 37 CFR 1.378(c), filed December 7, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight on December 7, 2008 for failure to pay the 3½ 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.

Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) are submitted.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

The patent file is being forwarded to Files Repository.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **HECTOR VALENCIA**
PMB 314 P.O. BOX 189003
CORONADO, CA 92178-9003

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FEB 17 2005

Nathan K. Meckel
Molecular Metallurgy, Inc.
1770 Gillespie Way
Suite 107
El Cajon, CA 92020

In re Application of
Nathan K. Meckel
Serial No. : 10/262,583
Filed : September 30, 2002
For : Dental Braces and Methods of Coating

: DECISION ON PETITION

This is a decision on the Request To Withdraw Application From Issue Under 37 C.F.R. § 1.313 And Request For Continued Examination Under 37 C.F.R. § 1.114 filed July 26, 2004. There is no fee for this petition.

The petition is dismissed as being moot.

A review of the file reveals that a Notice of Allowance and Fee(s) Due was mailed June 30, 2004 setting forth a three-month period within which to pay the issue fee. The instant request was filed within the indicated three-month period and prior to the payment of the issue fee. In fact, the issue fee was not paid and the request so indicates. According to 37 C.F.R. § 1.313(a), "(a) petition under this section is not required if a request for continued examination under § 1.114 is filed prior to payment of the issue fee." Thus, as the issue fee had not yet been paid, the instant petition was not necessary, and the request for continued examination was processed. A non-final Office action has already been prepared and was mailed on December 14, 2004 setting forth a three-month period for response, which period continues to run.

Summary: Petition dismissed as being moot.

Esther M. Kepplinger

Esther M. Kepplinger, Director
Technology Center 3700
Phone: (571) 272-2975

ak/02/10/05

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : February 21, 2008

TO SPE OF : ART UNIT 2141

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/262606 Patent No.: 7257612 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☑ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

WILLIAM VAUGHN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE AV2144 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231

Paper No. 7

WOLF GREENFIELD & SACKS, PC
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210-2211

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MAR 17

OFFICE OF PETITIONS

In re Application of :
Nakayama et al. :
Application No. 10/262,666 : DECISION ON PETITION
Filed: October 1, 2002 :
Attorney Docket No. L00461.70140.US :

This is a decision on the petition filed October 1, 2002, requesting, in effect, that the Notice mailed November 15, 2002, be withdrawn to the extent that it states that Figures 1, 9, 11, 13, 14, 16, and 17 are missing.

The petition is **dismissed**.

The application was filed on October 1, 2002. On November 15, 2002, the Office of Initial Patent Examination mailed a Notice stating in part that the application had been accorded a filing date of October 1, 2002, and advising applicants that Figures 1, 9, 11, 13, 14, 16, and 17 described in the specification appeared to have been omitted.

In response, the present petition was filed.

Petitioner has failed to prove that figures labeled as Figures 1, 9, 11, 13, 14, 16, and 17, were filed on October 1, 2002.

Although Figures labeled Figure 1A and 1B were filed, a Figure labeled as Figure 1 was not filed. Therefore, the Notice was correct in stating that a drawing labeled as Figure 1 was not present. The same rationale applies to the other omitted Figures. Therefore, the "Notice" was properly mailed and will not be withdrawn.[1]

---

[1] Attention is directed to MPEP 601.01(g) which reads in part:

The Office of Initial Patent Examination (OIPE) reviews application papers to determine whether all of the figures of the drawings that are mentioned in the specification are present in the application. If the application is filed without all the drawing figure(s) referred to in the specification, and the application [is entitled to a filing date], OIPE will mail a "Notice of Omitted Item(s)" indicating that the application papers . . . are lacking some of the figures of drawings described in the specification.

Each application received by OIPE must be individually reviewed for compliance with both the statutory requirements for according an application a filing date and for compliance with various requirements of the rules. Many of the applications concern complex technology. Accordingly, the employees of OIPE, who are not trained engineers or scientists, are not expected to make a detailed comparison of the written description and drawings. To do so would require a greater expenditure of time and resources, with a resulting increased cost, than are currently allocated. In the past, applicants and practitioners have indicated to the PTO that such increases are undesired. Therefore, if a Figure listed in the specification is not present, OIPE sends a Notice of Missing Parts and does not examine the content of the drawings and specification to determine whether the Figure may have been unlabeled or mislabeled.

In the future, petitioner should make certain when reviewing the application prior to filing that all figures of drawings are correctly labeled and described in the brief description and elsewhere in the specification. If a Notice of Omitted Items is mailed because a drawing is unlabeled or mislabeled, petitioner may amend the specification or drawings to properly label the drawings and a petition is NOT necessary.[2]

The original application papers will include only those application papers present on the date of deposit.

Petitioner should note that the Notice mailed November 15, 2002, stated the application would become abandoned unless replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 are filed within an extendable two month time period. Office records fail to indicate the receipt of replacement drawings.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 1, 2002, using only the sheets of drawings filed on that date.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

---

[2] New, properly labeled drawings may be entered by an examiner without petition so long as the new drawings contain no new matter. See MPEP 608.02(a).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/27/2005

TO SPE OF : ART UNIT 3600(3644)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,878,052

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-922
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

*** okay to enter sub-specs in cofc request for reprint?**

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:

TERI PHAM LUU
SUPERVISORY
PRIMARY EXAMINER

3640

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DW 04-03

Paper No. 5

WILLIAM M. HANLON, JR.
YONG & BASILE, P.C.
SUITE 624
3001 WEST BIG BEAVER ROAD
TROY MI 48084

COPY MAILED

APR 1 1 2003

OFFICE OF PETITIONS

In re Application of	:	
Mills and Burgess	:	
Application No. 10/262,682	:	DECISION ACCORDING STATUS
Filed: 2 October, 2002	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. GRA-100-A	:	

This is in response to the petition filed under 37 CFR 1.47(a)[1] on 27 December, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 2 October, 2002, with a declaration naming Donald Mills and Jay Burgess as joint inventors and signed by joint inventor Mills on behalf of himself and joint inventor Burgess. Accordingly, on 31 October, 2002, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring, inter alia, an oath or declaration signed by joint inventor Burgess and a surcharge for its late filing. In response, on 17 December, 2002, petitioners submitted the present petition, accompanied by

[1] A petition under 37 CFR 1.47(b) is inappropriate in this instance since all but one of the inventors has signed the declaration. A petition under 37 CFR 1.47(b) is only appropriate where none of the inventors will sign. Accordingly, the petition will be treated as a petition under 37 CFR 1.47(a).

the petition fee and a declaration signed by Jesus Tome, Vice President of Engineering, Grupo Antolin North America for the non-signing inventor

Petitioners assert that Burgess was presented the declaration and an assignment on several occasions, but refused to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1). In regards to item (1), petitioners have not shown that a copy of the application (specification, including claims, drawings, if any, and the declaration) were presented to the non-signing inventors. Rather, it appears that the non-signing inventor was only shown the declaration. Petitioners should sent or give each non-signing inventor a copy of the application at his last known address with a request that he sign and return the declaration.

Likewise, before a *bona fide* refusal can be alleged, petitioners must show that a copy of the application papers was sent to the non-signing inventors. If there is a written refusal, a copy thereof must be submitted with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

It is noted that the declaration filed with the present petition is not acceptable because it has been signed by petitioner's counsel on behalf of the nonsigning inventor. A declaration under 37 CFR 1.47(a) is acceptable only if all of the signing inventors signed in their respective signature blocks and the signature block of the nonsigning inventor is left blank, or all of the signing inventors sign a statement saying that they are

signing on behalf of the non-signing inventor. There is no provision under 37 CFR 1.47(a) for someone other than the signing inventors, however, to sign on behalf of the non-signing inventor. Nevertheless, as an acceptable declaration was provided on filing, the declaration provided on filing will be accepted. The declaration filed with the present petition will not be accepted, but will be retained in the application file.

The $130.00 late filing surcharge will be charged to counsel's deposit account, No. 25-0115.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

OR (after 1 May, 2003)[2]

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[2]Effective 1 May, 2003, the U.S. Patent and Trademark Office is changing its address for some mail in preparation for its move to new office space in Alexandria, Virginia beginning at the end of 2003. See 68 Fed. Reg. 14332 (March 25, 2003).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DW 07-03

Paper No. 8

WILLIAM M. HANLON, JR.
YONG & BASILE, P.C.
SUITE 624
3001 WEST BIG BEAVER ROAD
TROY MI 48084

COPY MAILED

JUL 2 1 2003

OFFICE OF PETITIONS

In re Application of	:	
Mills and Burgess	:	
Application No. 10/262,682	:	DECISION ACCORDING STATUS
Filed: 2 October, 2002	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. GRA-100-A	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 11 July, 2003.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Jay Burgess, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the petitioners have established, via the declaration of joint inventor Donald Mills, that a copy of the above-identified application was presented to the non-signing inventor. Furthermore, petitioners have established, via the declaration of Jesus Tome, that the non-signing inventor refused to sign the declaration naming his as a joint inventor along with Donald Mills.

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.

Counsel's deposit account, No. 25-0115, will be charged $110.00 for a one (1) month extension of time.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

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 07-03

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JUL 2 1 2003

OFFICE OF PETITIONS

Jay Burgess
6929 Webster Road
Imlay City, MI 48444

In re Application of
Mills et al.
Application No. 10/262,682
Filed: 2 October, 2002
For: SUN VISOR AND COVER ATTACHMENT METHOD

Dear Mr. Burgess:

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

WILLIAM M. HANLON, JR.
YONG & BASILE, P.C.
SUITE 624
3001 WEST BIG BEAVER ROAD
TROY MI 48084

#6

Our Reference: GRA-100-A PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Donald Mills and Jay Burgess
Serial Number:	10/262,682
Filing Date:	October 2, 2002
Examiner/Art Group Unit:	Unknown/3612
Title:	SUN VISOR AND COVER ATTACHMENT METHOD

COMMUNICATION CONCERNING DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

FAX RECEIVED
JUL 11 2003
PETITIONS OFFICE

Sir:

This communication is in response to the Decision dated April 11, 2003 in which Applicant's prior Petition was dismissed.

Applicant submits a Declaration by Donald Mills, the only co-inventor who signed the Inventor Declaration, attesting to his personal knowledge that Jay Burgess, the co-inventor who refused to sign the inventor declaration, was provided with a copy of the application and did review the application, including the specification, claims and drawing, prior to his verbal statement that he would not sign the declaration.

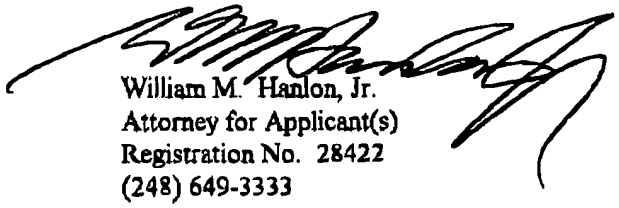
As the dismissal of Applicant's prior petition was on the basis that there was no proof that the non-signing inventor was shown the application, it is respectfully submitted that such proof has been clearly established such that all of the requirements for a grantable petition under 37 CFR 1.47(a) have been met.

The oral refusal by the non-signing inventor was made to Jesùs Tome as verified in his previously submitted Declaration dated December 11, 2002.

As all requirements for a grantable petition under 37 CFR 1.47(a) have now been met, granting of Applicant's petition is respectfully requested.

Respectfully submitted,

YOUNG, BASILE, HANLON, MacFARLANE, WOOD & HELMHOLDT, P.C.



William M. Hanlon, Jr.
Attorney for Applicant(s)
Registration No. 28422
(248) 649-3333

3001 West Big Beaver Rd., Suite 624
Troy, Michigan 48084-3107

Dated: July 11, 2003
WMH/jao

CERTIFIED A TRUE COPY this 11th day of July 2003

Janice A. Ogg

STATE OF MICHIGAN)
COUNTY OF OAKLAND) **SS**
UNITED STATES OF AMERICA)

Subscribed and Sworn to before me this 11th day of July 2003.

[seal]

NOTARY PUBLIC Janet F. Zuk
Oakland County, Michigan
My Commission Expires: July 19, 2006

Our Reference: GRA-100-A PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Donald Mills and Jay Burgess

Serial Number: 10/262,682

Filing Date: October 2, 2002

Examiner/Art Group Unit: Unknown/3612

Title: SUN VISOR AND COVER ATTACHMENT METHOD

SUPPLEMENTAL DECLARATION UNDER 37 CFR 1.47

Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

FAX RECEIVED
JUL 11 2003
PETITIONS OFFICE

Sir:

I, Don Mills, do hereby declare that:

1. I repeat all of the statements 1-7 in my previous declaration dated December 11, 2002.

2. On or about September 28, 2002, I received copies of the application from our attorney, William M. Hanlon, Jr., along with a letter requesting that the application be reviewed for comment by myself and the other co-inventor, Jay Burgess.

3. In the next few days following receipt of the application, Jay Burgess and I on at least one occasion met to review the application together.

4. On or before October 1, 2002, both Jay Burgess and myself approved the application for filing.

5. Between September 28, 2002 and October 1, 2002 when Jay Burgess refused to sign the application Inventor Declaration and the Assignment, Jay Burgess was provided with and had a copy of the application that was subsequently filed in the United States Patent and Trademark Office. I personally saw Jay Burgess review the application, including the specification, claims and drawing.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or any patent issued thereon.

Donald Mills

Date: 7-3-03

Law Offices of
YOUNG & BASILE, P.C.
Patents, Trademarks and Copyrights

3001 W. Big Beaver Road
Suite 624
Troy, Michigan 48084
Telephone: (248) 649-3333
FACSIMILE NO.: (248) 649-3338

2001 Commonwealth Blvd.
Suite 301
Ann Arbor, Michigan 48105
Telephone: (734) 662-0270
Facsimile: (734) 662-1014

FACSIMILE TRANSMISSION

DATE: *July 11, 2003*

TO: *Office of Petitions*

FROM: *William M. Hanlon, Jr.*

RE: *GRA-100-A*
Serial No. 10/262,682

FAX NO.: *703-308-6916*

PAGES TO FOLLOW: - 7 -

MESSAGE:

FAX RECEIVED
JUL 11 2003
PETITIONS OFFICE

THE INFORMATION CONTAINED IN THIS FACSIMILE IS ATTORNEY PRIVILEGED AND/OR CONFIDENTIAL AND IS INTENDED ONLY FOR THE NAMED RECIPIENT. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, please notify us immediately. You are hereby notified that any dissemination, distribution or copying of this information is strictly prohibited. Thank you.

This message was transmitted by Janice in the Troy Office. If transmission difficulties occur, please contact sender at (248) 649-3333. Please respond to FACSIMILE NO. (248) 649-3338

( ) Please call to confirm receipt
(X) Original will not follow
( ) Original will follow by:
_ Regular Mail
_ Express Mail
_ Federal Express
_ Other _____

Our Reference: GRA-100-A PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Donald Mills and Jay Burgess
Serial Number:	10/262,682
Filing Date:	October 2, 2002
Examiner/Art Group Unit:	Unknown/3612
Title:	SUN VISOR AND COVER ATTACHMENT METHOD

CERTIFICATION OF FACSIMILE TRANSMISSION

Sir:

Transmitted with this document is a Request for a One Month Extension of Time; Communication Concerning Decision According Status Under 37 CFR 1.47(a); Certified True Copy of Supplemental Declaration under 37 CFR 1.47 in the above-identified application.

X Charge $110.00 to Deposit Account Number 25-0115.

X Please charge any additional fees or credit any overpayment to Deposit Account Number 25-0115.

I hereby certify that this correspondence was transmitted, via Facsimile, to Office of Petitions, Commissioner for Patents, Facsimile No. 703-308-6919 on July 11, 2003.

William M. Hanlon, Jr.
Attorney for Applicant
Registration No. 28422
(248) 649-3333

YOUNG & BASILE, P.C.
3001 W. Big Beaver Rd.
Suite 624
Troy, Michigan 48084

FAX RECEIVED
JUL 11 2003
PETITIONS OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOHN S. BEULICK (12729)
C/O ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS MO 63102-2740

COPY MAILED

JAN 26 2009

OFFICE OF PETITIONS

In re Reissue Application of :
Nichols, et. al. :
Reissue Application No. 10/262,695 : ON PETITION
Filed: October 2, 2002 :
Reissue Patent No: RE 39,320 :
Reissue Date: October 3, 2006 :
Original Patent No. 6,126,400 :
Issue Date: October 3, 2000
For: **THERMAL BARRIER COATING WRAP FOR TURBINE AIRFOIL**

This is a decision on the petition under 37 CFR 1.378(c), filed November 6, 2008, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on October 3, 2008 for failure to pay the seven 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).

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified patent. However, in accordance with 37CFR 1.34(a), the signature of Mardson McQuay appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If petitioner desires to receive future correspondence regarding this patent, the appropriate power of attorney or authorization of agent must be submitted.

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 1.1378(c) 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.

A courtesy copy of this decision is being mailed to the address given in the petition. Therefore, all future correspondence will be mailed to the address of record.

Additionally, the Change of Address for Attorneys For Registrant(s) filed on October 26, 2006 is defective and can not be processed because Robert B. Resser, III is not an attorney/agent of record. See 37 CFR 1.33.

Petitioner has demonstrated to the satisfaction of the Director that the delay in timely paying the maintenance fee was unintentional.

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 Denise Williams at (571) 272-8930.

The patent file is being forwarded to Files Repository.

Brian W. Brown
Petitions Examiner
Office of Petitions

cc: Mardison McQuay
2 Corporate Drive, Ste. 648
PO Box 861
Shelton, CT 06484

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

Joseph Roberson, M.D.
California Ear Institute at Stanford
801 Welch Road
Palo Alto CA 94304

COPY MAILED

JAN 17 2003

OFFICE OF PETITIONS

In re Application of
Roberson, et al.
Application No. 10/262,725
Filed: October 2, 2002
Attorney Docket No. JR-002
For: LENGTH-ADJUSTABLE OSSICULAR PROSTHESIS

DECISION GRANTING PETITION

This is a decision on the petition, filed November 15, 2002, requesting, in effect, withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed November 7, 2002.

The application was deposited on October 2, 2002. On November 7, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that pages 11-21 of the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that pages 11-21 be accorded a filing date of October 2, 2002 on the basis that the entire specification, including allegedly missing pages 11-21, was received in the Patent and Trademark Office (PTO) on October 2, 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 October 2, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 24 pages of specification. A review of the application file reveals that there are 13 pages present. Pages 11-21 are missing.

The return postcard constitutes *prima facie* evidence that the entire specification, including missing pages 11-21, were filed on October 2, 2002. MPEP 503. Accordingly, the request is granted.

The $130.00 petition fee will be refunded via a treasury check that will be scheduled shortly.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of October 2, 2002, using the copy of pages 11-21 supplied with the petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

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MAR 22 2007

OFFICE OF PETITIONS

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

In re Application of
Joseph Roberson, et al.
Application No. 10/262,725
Filed: October 2, 2002
Attorney Docket No. RBRSN.001A

ON PETITION

This is a decision on the petition, filed September 18, 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 a failure to reply in a timely manner to a Notice of Fee Deficiency mailed June 2, 2004. A Notice of Abandonment was mailed on January 11, 2005. On September 18, 2006, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the fee deficiency; (2) the petition fee of $750; and (3) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 3738 for appropriate action by the Examiner in the normal course of business on the reply received.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 5, 2006

TO SPE OF : ART UNIT 1763

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/262727 Patent No.: 6,878,300

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Approved.

/Parviz Hassanzadeh/ — **SPE**

1792 — **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

Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

COPY MAILED

OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Claus Neubauer et al :
Application No. 10/262,762 : DECISION ON PETITION
Filed: October 2, 2002 :
Attorney Docket No. :
2002P16238US

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 8, 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 February 28, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed November 28, 2005. Accordingly, the date of abandonment of this application is November 29, 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,and the publication fee of $300; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Accordingly, the submission of the issue and publication fees is accepted as having been unintentionally delayed.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition[1] differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise

[1] It is noted that the Office action of February 28, 2006, which was addressed to the address of record, was returned to the Office.

instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for processing into a patent.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

UNITED STATES PATENT AND TRADEMARK OFFICE

JUL 18 2005

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BAKER & MCKENZIE
PATENT DEPARTMENT
2001 ROSS AVENUE
SUITE 2300
DALLAS, TX 75201

In re application of	:	**DECISION ON PETITION**
Jeffrey W. Mankoff	:	**TO MAKE SPECIAL**
Application No. 10/262,767	:	**(ACCELERATED**
Filed: October 1, 2002	:	**EXAMINATION)**
For: DELIVERY, ORGANIZATION, AND REDEMPTION OF VITUAL OFFERS FROM THE INTERNET, INTERNET-TV, WIRELESS DEVICES AND OTHER ELECTRONIC MEANS		

This is in response to the petition filed on June 14, 2005, to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

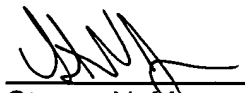
The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.



Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(571) 272-6611

RAR/dcg: 7/8/05

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Paper No. 6

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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JAN 15 2003

OFFICE OF PETITIONS

In re Application of	:	
Toyoda et al.	:	
Application No. 10/262,777	:	DECISION GRANTING PETITION
Filed: 2 October, 2002	:	
Attorney Docket No. 41309/254391	:	

This is a decision on the petition filed on 12 December, 2002, requesting that the above-identified application be accorded a filing date of 2 October, 2002.

On 2 October, 2002, the application was deposited.

On 26 November, 2002, the Office of Initial Patent Examination (OIPE) mailed a Notice of Incomplete Nonprovisional Application stating that the application was incomplete since the application was deposited without drawings. The Notice stated that the filing date will be the date of receipt of the drawings.

In response, on 12 December, 2002, the present petition and a check for the requisite petition fee were filed. Petitioners concede that the drawings were inadvertently omitted, but argue that a complete application was present on 2 October, 2002, for filing date purposes, in that the transmittal letter states that the entire disclosure of the prior application "is hereby incorporated by reference herein." Additionally, the preliminary amendment filed with the original application papers identifies this application as a continuation of Application No. 09/409,078, which is hereby incorporated by reference.

Petitioners request that the application be accorded a filing date of 2 October, 2002. The petition is accompanied by, *inter alia*, one (1) sheet containing drawing Figures 1A-D.

It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a

drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[1] A review of the record reveals that Claims 4 (as amended), 6, 7, 11 (as amended) 13, 14, 16, 17, 19, and 20 are method claims. Therefore, the present application is deemed to be an application which does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date.

The petition is granted.

The Notice, mailed 26 November, 2002, is hereby vacated. No petition fee has been charged and none is due.

The application will be processed for filing date purposes using only the application papers present in the file on 2 October, 2002. The drawings supplied on will not be processed or examined, but will be retained in the application file. The one (1) sheet of drawings should be filed as a preliminary amendment. Obviously, anything that was not new matter in the prior application would not be new matter in this application.

The application is being forwarded to OIPE for further processing with a filing date of 2 October, 2002, using only the application papers filed on that date, and for an indication in Office records that no (0) sheets of drawings were present on filing.

Telephone inquires should be directed to Petitions Attorney Douglas I. Wood at 703 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] MPEP 601.01(f).

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Paper No. 8

STEPTOE & JOHNSON PLLC
Bank One Center, Sixth Floor
P.O. Box 2190
Clarksburg WV 26302-2190

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OFFICE OF PETITIONS

In re Application of
Coughlin
Application No. 10/262,783
Filed: October 1, 2002
Attorney Docket No. 191330/00001

ON PETITION

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed April 13, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR §1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR §1.76(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to prior-filed provisional application no 60/326,464, filed October 1, 2001.

The instant pending nonprovisional application was filed on October 1, 2002, and was pending at the time of filing of the instant petition. While a reference to the prior-filed application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the declaration filed on January 6, 2003.

The current procedure where a claim for priority under 37 CFR §1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in (1) the oath or declaration filed with the original application papers OR within 4 months of the filing date of the application or within 16 months of the filing date of the prior-filed application or (2) a transmittal letter and the Office notes the claim for priority, no petition will be required to accept a late claim

for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §1.78(a)(5)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim priority under § 37 CFR 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of the prior-filed application in the declaration filed on January 6, 2003, as shown by its inclusion on the January 27, 2003 filing receipt.

In view of the above, the $1,330.00 petition fee submitted is unnecessary and will be refunded to petitioners' deposit account no. 19-4295 in due course.

Any questions concerning this decision on petition may be directed to Senior Petitions Attorney E. Shirene Willis at (703) 308-6712. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The examiner of record in Technology Center AU 3749 will take appropriate action on the amendment filed April 13, 2004, including consideration of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) of the claim for benefit of the prior-filed application.

Charles Pearson
Director, Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO Box 142950
GAINESVILLE, FL 32614

Mail Date: 04/20/2010

Applicant	: Jerald C. Ensign	: DECISION ON REQUEST FOR
Patent Number	: 7569748	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/262,794	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/02/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **507** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No. None

SONNENSCHEIN NATH & ROSENTHAL LLP
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WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

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AUG 2 8 2006
OFFICE OF PETITIONS

In re Application of	:	
David H. Owens et al.	:	
Application No. 10/262,810	:	DECISION ON PETITION
Filed: October 1, 2002	:	UNDER 37 C.F.R. §1.137(f)
Attorney Docket No. 40006237-0001-002	:	
Title: METHOD AND SYSTEM FOR INTEGRATING ENTERPRISE SOFTWARE APPLICATIONS WITH DESKTOP SOFTWARE APPLICATIONS	:	

This is a decision on the petition filed on May 31, 2006, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 C.F.R §1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

Petitioner states that the present nonprovisional application is the subject of an application filed in either a foreign or an international application on September 16, 2003. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in either an international application or a foreign country.

Unfortunately, it does not appear that a Notice of Rescission of Nonpublication Request has not been filed with the Office. As such, Petitioner has not rescinded the previous nonpublication request.

Accordingly, the present petition must be **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.137(f)". 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[2], hand-delivery[3], or facsimile[4].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[5]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

---

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 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

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Paper No. None

SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

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OFFICE OF PETITIONS

In re Application of	:	
David H. Owens et al.	:	
Application No. 10/262,810	:	DECISION ON RENEWED PETITION
Filed: October 1, 2002	:	UNDER 37 C.F.R. §1.137(f)
Attorney Docket No. 40006237-0001-002	:	
Title: METHOD AND SYSTEM FOR INTEGRATING ENTERPRISE SOFTWARE APPLICATIONS WITH DESKTOP SOFTWARE APPLICATIONS	:	

This is a decision on the renewed petition filed on October 16, 2006, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 C.F.R. §1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

additional information where there is a question whether the delay was unintentional.

With the original petition, Petitioner submitted the petition fee and the proper statement of unintentional delay. Petitioner set forth that the present nonprovisional application is the subject of an application filed in either a foreign or an international application on September 16, 2003. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in either an international application or a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of either a foreign application or an application under a multilateral international agreement that requires publication of applications 18 months after filing.

The original petition was filed on May 31, 2006, and was dismissed via the mailing of a decision on August 28, 2006 for failure to file a Notice of Rescission of Nonpublication Request with the Office. As such, Petitioner failed to rescind the previous nonpublication request on original petition.

On October 16, 2006, a Notice of Rescission of Nonpublication Request was filed with the present renewed petition.

The petition under 37 C.F.R. §1.137(f) is **GRANTED**.

Petitioner has submitted the notification of either a foreign or an international filing, paid the petition fee, and has made the proper statement of unintentional delay.

The present petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i), filed with the original application papers, has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected

publication date of January 25, 2007 was mailed to Applicant on October 18, 2006.

Technology Center 2100 will be notified of this decision.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. None

KELLEY DRYE & WARREN LLP
TWO STAMFORD PLAZA
281 TRESSER BOULEVARD
STAMFORD CT 06901

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SEP 15 2006

OFFICE OF PETITIONS

In re Application of :
Richard H. Selinfreund et al. :
Application No. 10/262,816 : DECISION ON PETITION
Filing Date: October 2, 2002 : UNDER 37 C.F.R. § 1.137(B)
Attorney Docket No.: VTI-7017(US) :
Title: PRODUCT PACKAGING INCLUDING DIGITAL DATA :

This is a decision on the petition under 37 C.F.R §1.137(b)[1], filed June 6, 2006, to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed March 1, 2006, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees[2]. Accordingly, the above-identified application became abandoned on June 2, 2006.

With the present petition, Petitioner has submitted the petition fee, the issue fee, the publication fee, and the proper statement

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1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2 See MPEP §710.02(e).

of unintentional delay. It is noted that a terminal disclaimer is not necessary.

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**. The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

The Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address has been entered and made of record.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

---

3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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WILDMAN HARROLD ALLEN & DIXON
225 WEST WACKER DRIVE, SUITE 2800
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Patent No. 6,872,677 :
Issue Date: March 29, 2005 :
Application No. 10/262,854 : ON PETITION
Filed: October 2, 2002 :
Attorney Docket No. OIL-1 :

This is a decision on the petition filed May 31, 2005, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This 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

[1] See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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55 METCALFE STREET, SUITE 900
OTTAWA ON K1P 5Y6
CANADA

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OFFICE OF PETITIONS

In re Application of	:	
Ahmadvand & Hatami-Hanza	:	
Application No. 10/262,861	:	DECISION ACCORDING STATUS
Filed: 3 October, 2002	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 50111-25 /ala	:	

This is in response to the petition under 37 CFR 1.47(a), filed by facsimile on 6 January, 2003.

The petition is **GRANTED**.

Petitioners have shown that non-signing inventor Hamid Hatami-Hanza cannot be found. Specifically, petitioners have shown that a letter was sent to the last known addresses of the non-signing joint inventor was returned by the Canadian post office as undeliverable.

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 Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The petition fee of $130.00 will be charged to counsel's deposit account, No. 19-2550.

The application is being 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.

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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JUN 18 2008

OFFICE OF PETITIONS

In re Patent No. RE39357 :
Issue Date: October 17, 2006 :
Application No. 10/262,880 : DECISION ON PETITION
Filed: October 3, 2002 :
Attorney Docket No. 03348.0159-00 :

This is a decision on the petition under 37 CFR 1.182, filed May 21, 2008, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Office of Data Management is directed to issue a duplicate Letters Patent.

The Office is in receipt of $130.00. However, the petition fee is $400. As authorized, the $270 difference for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3215. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Ms. Niomi Farmer, Office of Data Management, Phone: 703-308-9250 x129.

A copy of this decision is being faxed to Publishing Division for issuance of a duplicate Letters Patent.

Charlema Grant
Petitions Attorney
Office of Petitions

cc: Ms. Niomi Farmer, Office of Data Management, Fax: 571-270-9753.

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caj

Mailed: 3-13-07

In re Application of
Kazuyuki Hata et al.
Serial No. 10/262,898
Filed: October 3, 2002
For: LAMINATE, ADHERING METHOD AND ACTIVE ENERGY RAY-CURABLE COMPOSITION

: DECISION ON
: PETITION

This is a decision on the PETITION UNDER 37 CFR 1.144 TO WITHDRAW THE RESTRICTION REQUIREMENT mailed June 15, 2006 and made final in the office action mailed October 12, 2006.

On November 7, 2005, the Examiner issued a non-final office action. Applicants filed a response to the office action, including claim amendments, on March 23, 2006. On June 15, 2006, a restriction requirement was made by the examiner. Restriction had not been required previously. Applicants traversed the restriction requirement in a response filed July 17, 2006. The examiner repeated the restriction requirement in an office action mailed October 12, 2006 and made the restriction requirement final. Claims 1, 3, 6, 16-19, 22, 25-26, 28-29, 31-32, 35-40, 43-47, and 50-51 were withdrawn from consideration as being drawn to a non-elected invention.

On December 12, 2006, the instant petition under 37 CFR 1.144 was filed to formally request the withdrawal of the restriction requirement.

Petitioner argues that the restriction as maintained is improper because continued examination of all the claims could be made without serious burden and no reasons have been provided to support restriction between the inventions of groups I-III.

DECISION

Section 803 of the MPEP states:

803 Restriction — When Proper
Under the statute, the claims of an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 802.01, § 806.06, and

§ 808.01) or distinct (MPEP § 806.05 - § 806.05(j)).

If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions.

In making the restriction final, the examiner states that the claims as amended require a burdensome search and concludes that restriction between the inventions is proper.

Petitioner argues that there is no serious burden on the examiner to search all of the claims in the application. This argument is persuasive. The examiner has not established that any serious burden exists to examine all of the claims. The lack of a burden is evidenced by the fact that the examiner has previously examined claims covering the same or similar scope as that which was presented in the amended claims. The restriction requirement is improper and should be withdrawn.

Petitioner further argues that no adequate reasons have been provided to support restriction between the inventions of Groups I-III. This argument has been considered and is persuasive. No reasons have been provided to support the distinctness of Groups II and III. Therefore, continued restriction between these groups is improper. With respect to Groups I and II, petitioner argues no explanation has been provided as to why the use of the composition of Group II as an adhesive is distinct from its use to make the laminates of Group I. This argument is also persuasive

Accordingly, the restriction requirement is found to be improper and the petition to withdraw the restriction requirement is **GRANTED**. The application is being forwarded to the examiner in order to rejoin non-elected claims 1, 3, 6, 16-19, 22, 25-26, 28-29, 31-32, 35-40, 43-47, and 50-51 and issue a new and complete non-final office action.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 4

COPY MAILED

JUN 17 2003

OFFICE OF PETITIONS

KATTEN, MUCHIN, ZAVIS, ROSENMAN
575 MADISON AVENUE
NEW YORK, NY 10022-2585

In re Application of :
Aikawa, et al. :
Application No. 10/262,918 : DECISION GRANTING PETITION
Filed: October 2, 2002 :
Attorney Docket No. WAKA 20.003 :

This is a decision on the petition filed November 13, 2002, requesting that the above-identified application retain the presently accorded a filing date of October 2, 2002, with page 23 of the specification as part of the original disclosure.

On October 2, 2002, the above-identified application was filed. On October 21, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Items of a Nonprovisional Application" (the "Notice"), stating that the application had been accorded a filing date of October 2, 2002, however, page 23 of the specification appeared to have been omitted. The Notice allowed a non-extendable two month period for reply beginning from the mailing date of the Notice.

In response, on November 13, 2002, applicants filed the present petition, a copy of page 23 of the specification, and a postcard receipt date-stamped by the Office showing that, among other items, 24 pages of the specification were received on October 2, 2002.

Upon review of the record, page 23 of the specification has not been located among the application papers. However, the evidence is convincing that the application papers deposited October 2, 2002, included page 23 of the specification, which was subsequently misplaced by the Office. Therefore, the application, including page 23 of the specification, was complete on filing and entitled to the presently accorded filing date of October 2, 2002.

Accordingly, the petition is granted.

Applicant is advised that the Notice was sent in error and is vacated. Therefore, no petition fee is necessary.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of October 2, 2003, using the twenty-four (24) pages of specification filed October 2, 2002.

Any inquiries related to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (703)305-0010

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Beverly M. Flanagan
Supervisory Petitions 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

ROBERT E. WALTER
GE PLASTICS
ONE PLASTICS AVENUE
PITTSFIELD, MA 01201

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JAN 12 2006

OFFICE OF PETITIONS

In re Application of
Peter H. TH Vollenberg et al.
Application No. 10/262,919
Filed: October 2, 2002
Attorney Docket No. 08CV7423-3

ON PETITION

This is a decision on the petition filed November 18, 2005 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned August 23, 2005 for failure to timely pay the issue fee on or before August 22, 2005. Accordingly, a Notice of Abandonment was mailed October 25, 2005.

The issue fee, petition fee and publication fee have been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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

BROWDY AND NEIMARK
624 NINTH STREET, N.W.
WASHINGTON, DC 20001-5303

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APR 0 3 2003

OFFICE OF PETITIONS

In re Application of :
Ming Wei Chuang et al :
Application No. 10/262,947 : NOTICE
Filed: October 3, 2002 :
Attorney Docket No. CHUANG=11 :

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 2675.

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

McDERMOTT WILL & EMERY
600 13TH STREET NW
WASHINGTON, DC 20005-3096

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NOV 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Iwata Ikeda et al :
Application No. 10/262,959 : DECISION GRANTING PETITION
Filed: October 3, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 50099-209 :

This is a decision on the petition, filed October 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 August 1, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2676 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. None

Pol Raikin
Hotel Argaman 65
P.O. Box 2680
Akko 24126 IL ISRAEL

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JUN 2 8 2006

OFFICE OF PETITIONS

In re Application of :
Pol Raikin :
Application No. 10/262,961 : DECISION ON PETITION
Filed: October 3, 2002 : UNDER 37 C.F.R. §1.181(A)
Title: POLES AND FASTENINGS FOR :
BIKING UPRIGHT :

This is a decision on the petition filed September 7, 2005, pursuant to 37 C.F.R. §1.181(a)[1], to revive the above-identified application.

The Office regrets the 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 September 17, 2003, which set a shortened statutory period for reply of three (3) months. A response was received on December 11, 2003, and a Notice of Non-Compliant Amendment (notice) was mailed on April 13, 2004. The notice set a one-month period for response. A response was received one day late on May 14, 2004, and no extensions of time under the provisions of 37 C.F.R.

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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.

§1.136(a) were requested. Accordingly, the above-identified application became abandoned on May 14, 2004. A notice of abandonment was mailed on February 11, 2005.

With the present petition, Petitioner has asserted that a response was mailed on May 3, 2004. The Office is in receipt of this response, however the response was not timely submitted. As set forth above, the notice was mailed on April 13, 2004, and set a one-month period for response. As such, a response was due no later than May 13, 2004. Petitioner's response arrived on May 14, 2004, and failed to contain a certificate of mailing. As such, the actual date of receipt must be used, pursuant to 37 C.F.R. §1.8(a), and it follows that the response was not timely submitted. As such, the response could not be accepted, and the present application was properly held to be abandoned.

Therefore, the petition must be **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.181(a)." This is not a final agency action within the meaning of 5 U.S.C 704.

Petitioner may wish to consider the submission of a petition under 37 C.F.R. §§1.137(a) and/or (b).

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4].

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

---

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 24, 2007

TO SPE OF : ART UNIT 2600

SUBJECT : Request for Certificate of Correction for Appl. No. 10/262962 patent no. 7193747

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes do not apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: All changes reviewed and approved.

SPE

2625

Art Unit

PAGE 1/3 * RCVD AT 6/8/2009 10:58:44 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/34 * DNIS:2709942 * CSID: * DURATION (mm-ss):00-38

OIPE JC177
NOV 19 2004
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Confirmation No.: 1366
Babin *et al.*	Art Unit: 1722
Appl. No.: 10/262,967	Examiner: Heitbrink, Timothy W.
Filed: October 3, 2002	Atty. Docket: 2107.1650001
For: **A Nozzle Seal for an Injection Molding Apparatus (as amended)**	

Petition to Withdraw from Issue under 37 C.F.R. § 1.313(c)(2) For Consideration of a Request for Continued Examination

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

It is hereby petitioned under 37 C.F.R. § 1.313(c)(2) that the above-captioned application be withdrawn from issue for consideration of the accompanying request for continued examination in compliance with 37 C.F.R. § 1.114.

It is believed that no extensions of time are necessary, other than those that are otherwise provided for herewith. However, if extensions of time under 37 C.F.R. § 1.136 other than those provided herewith are required to prevent abandonment of the above-captioned application, then such extensions of time are hereby petitioned.

This petition is accompanied by the required fee (37 C.F.R. § 1.17(h)). The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

11/22/2004 MGEBREM1 00000012 10262967
02 FC:1460 130.00 OP

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

Rae Lynn P. Guest
Attorney for Applicants
Registration No. 53,482

Date: November 19, 2004
1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600

336361_1.DOC

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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STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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DEC 0 6 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Denis Babin et al
Application No. 10/262,967
Filed: October 3, 2002
Attorney Docket No. 10984-1026

This is a decision on the petition, filed November 19, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 30, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The correspondence filed on November 19, 2004 is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Rae Lynn P. Guest appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1722 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions
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 : 08/08/05

TO SPE OF : ART UNIT 1722

SUBJECT : Request for Certificate of Correction on Patent No.: 10/262967 6869276

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☑ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:

all changes OK, TWH 8-18-05

TIM HEITBRINK
PRIMARY EXAMINER
GROUP 130

DUANE SMITH
SUPERVISORY PATENT EXAMINER

SPE 1724 **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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MANELLI DENISON & SELTER
2000 M STREET NW SUITE 700
WASHINGTON, DC 20036-3307

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JAN 0 4 2005

OFFICE OF PETITIONS

In re Application of :
David S. Knott et al :
Application No. 10/262,971 : ON PETITION
Filed: October 3, 2002 :
Attorney Docket No. 84638/2922 KAW :

This is a decision on the petition under 37 CFR 1.137(b), filed November 24, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue/publication fee in a timely manner in reply to the Notice of Allowance mailed August 13, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 16, 2004.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to the Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE: G. PC

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/6/07

TO SPE OF : ART UNIT 1744

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/262,995 Patent No.: 7105338

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: Change in column 5, line 27 is approved.
Change in column 5, line 32 is NOT approved.
- not Office's mistake
- not clerical in nature or typographical in nature
- not of minor character.

GLADYS JP CORCORAN
SUPERVISORY PATENT EXAMINER 1744

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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KENYON & KENYON
SUITE 600
333 W. SAN CARLOS STREET
SAN JOSE CA 95110

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NOV 23 2007

OFFICE OF PETITIONS

In re Application of
Ming Gao Yao
Application No. 10/263,001
Filed: October 1, 2002
Attorney Docket No. **12553/61**

DECISION ON PETITION

This is a decision on the petition filed October 31, 2007 to withdraw the holding of abandonment of the above-identified application, which is treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 is GRANTED.

The above-referenced application was held abandoned on September 17, 2007, for failure to file a timely response to the Office Communication mailed August 15, 2007 which set the longer of one month or 30 days for reply. Accordingly, a Notice of Abandonment was mailed October 4, 2007.

Petitioner argues that the period for response with extensions of time pursuant to 37 CFR 1.136(a) has not lapsed and thus the Abandonment and Notice of Abandonment are premature.

The decision rendered by the Board of Patent Appeals and Interferences dated May 15, 2007 which found new grounds for rejection, set a two month period for response to either reopen prosecution or request rehearing. A response was filed July 16, 2007 though not fully responsive and the Technology Center set an extendable one month period for further response to avoid abandonment.

Under the provisions of 37 CFR 1.136(a), an extension of time up to five months could be obtained making the response due date not later than February 15, 2008 as claimed by petitioner. As the period for extensions had not expired, the application is not abandoned and the Notice of Abandonment was mailed prematurely.

The instant petition includes a Request for Continued Examination and a two month extension of time. In view thereof, the response is timely filed and the Notice of Abandonment was sent in error and is hereby withdrawn. No fee for the petition to withdraw the holding of abandonment is due and none has been charged.

This application is being forwarded to Technology Center 2627 for review of the response filed October 31, 2007.

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

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

LAWRENCE D. CUTTER
IBM Corporation,
Intellectual Property Law Dept.
2455 South Rd., M/S P386
Poughkeepsie, NY 12601

Mail Date: 04/21/2010

Applicant	: Chin-Long Chen	: DECISION ON REQUEST FOR
Patent Number	: 7627114	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/263,032	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/02/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1801** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

COPY MAILED

JAN 15 2003

OFFICE OF PETITIONS

In re Application of :
Oka et al. :
Application No. 10/263,033 :
Filed: October 2, 2002 :
Attorney Docket No. SCEI 3.0-154 :

DECISION DISMISSING
PETITION AS MOOT

This is a decision on the petition filed October 9, 2002, requesting that the above-identified application be accorded a filing date of October 2, 2002.

The petition is **dismissed as moot.**

The United States Patent and Trademark Office records indicate that the above-identified application has been accorded a filing date of October 2, 2002. Thus, the petition is moot.

The application file is being returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries specific to this matter 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

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

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FEB 16 2005

OFFICE OF PETITIONS

In re Application of :
Zhizhang Chen et al :
Application No. 10/263,055 : DECISION ON PETITION
Filed: October 1, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 100204143-1

This is a decision on the petition filed November 12, 2004, which is being treated as a petition under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/846,047, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) 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 October 1, 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 claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after

expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

This matter is being forwarded to Technology Center Art Unit 2879.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Timothy F. Myers
Hewlett-Packard Co.
Legal Dept.
1000 NE Circle Blvd. m/s 422B
Corvallis, OR 97370

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WOMBLE CARYLE SANDRIDGE & RICE PLLC
P O BOX 7037
ATLANTA, GA 30357-0037

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MAR 1 8 2005

OFFICE OF PETITIONS

In re Application of :
William S. Caldwell et al :
Application No. 10/263,083 : DECISION GRANTING PETITION
Filed: October 2, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. T103 1301.1 :

This is a decision on the petition, filed March 17, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 21, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (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 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
WASHINGTON, D.C. 20231
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Paper No. 5

PATENT COUNSEL
APPLIED MATERIALS, INC.
Legal Affairs Department
P.O. BOX 450A
Santa Clara CA 95052

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MAR 0 4 2003

OFFICE OF PETITIONS

In re Application of
Waldhauer, et al.
Application No. 10/263,098
Filed: October 1, 2002
Attorney Docket No. 007210/TCG/EPI/LE
For: APPARATUSES AND METHODS
FOR TREATING A SILICON FILM

DECISION DISMISSING
PETITION

This is a decision on the petition entitled, "PETITION UNDER 37 CFR 1.181 TO ACCEPT RESUBMITTED DRAWINGS AND MAINTAIN AN ACCORDED FILING DATE," filed January 7, 2003, requesting, in effect, withdrawal of the Notice to File Omitted Item(s) in a Nonprovisional Application (Notice), mailed November 7, 2002 . The petition will be treated under 37 CFR 1.53(e).

The application was filed on October 1, 2002. On November 7, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that Figures 1B-1D, 2A-2C, 3, 4,5A-5B, 6A-6K, and 7 described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that Figures 1B-1D, 2A-2C, 3, 4,5A-5B, 6A-6K, and 7 be accorded a filing date of October 1, 2002 on the basis that 14 sheets of drawing figures, including Figures 1B-1D, 2A-2C, 3, 4,5A-5B, 6A-6K, and 7, were received in the Patent and Trademark Office (PTO) on October 1, 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 October 1, 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 January 29, 2002. MPEP 503. However, a review of the 14 sheets of drawings reveals that there are no Figures 6D and 6E on any of the 14 sheets of drawing figures. Accordingly, the Notice mailed November 7, 2002 was partially correct, insofar as it alleged that Figures 6D and 6E were omitted.

Accordingly, the petition under 37 CFR 1.53(e) to withdraw the Notice of November 7, 2002 is **DISMISSED**.

Pursuant to petitioners' authorization, deposit account no. 50-1074 will be charged the $130.00 petition fee.

A preliminary amendment canceling the references to Figures 6D and 6E in the specification and renumbering the drawing figures should be filed prior to the first Office action in order to avoid further delays in the examination of the application.

Of course, applicants may submit Figures 6D and 6E as an amendment to the drawings in which case the examiner will determine whether the additional sheet of drawing contains new matter (see MPEP 608.02(h)).

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of October 1, 2002, using 13 of the 14 sheets of drawings submitted with the instant petition[1]. 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
Senior Petitions Attorney
Office of Petitions

[1] Because the Office already has originally filed Figure 1A, it is unnecessary to use the resubmitted copy of 1A for processing purposes.

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
Applied Materials, Inc.
Legal Affairs Department
P.O. Box 450A
Santa Clara, CA 95052

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DEC 17 2004

OFFICE OF PETITIONS

In re Application of :
Fu et al. :
Application No. 10/263,105 : DECISION ON PETITION
Filed: October 1, 2002 :
Attorney Docket No. 007246 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 18, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply timely to the nonfinal Office action mailed March 29, 2004, which set a three-month shortened statutory period to respond. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on June 30, 2004. A Notice of Abandonment was mailed on October 18, 2004.

The 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 amendment, paid the petition fee, and made the proper statement of unintentional delay.

This matter is being referred to Technology Center Art Unit 2829.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FULBRIGHT & JAWORSKI
2200 ROSS AVENUE
SUITE 2800
DALLAS TX 75201-2784

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of :
Samir Arora et al :
Application No. 10/263,124 : ON PETITION
Filed: October 2, 2002 :
Attorney Docket No. :
47583/P026C1C1/10210002

This is a decision on the petition, filed March 15, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 22, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2176 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
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Alexandria, VA 22313-1450
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THOMAS C. WEBSTER
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES CA 90025-1030

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AUG 14 2007

OFFICE OF PETITIONS

In re Application of :
Ronald L.A. Theis et al :
Application No. 10/263,145 : DECISION GRANTING PETITION
Filed: October 1, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 4676P037 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 23, 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 election; the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement of July 17, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2153.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/263,159	10/02/2002	Perry B. Hackett	110.00450102	4698

26813 7590 07/18/2008

MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581336
MINNEAPOLIS, MN 55458-1336

EXAMINER	
WOITACH, JOSEPH T	
ART UNIT	PAPER NUMBER
1632	
MAIL DATE	DELIVERY MODE
07/18/2008	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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080716

DATE : July 22, 2008

TO SPE OF : ART UNIT 1633

SUBJECT : Request for Certificate of Correction on Patent No.: 7148203

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:

Amendments correct typographical errors in the printed patent.

SPE: /Joseph Woitach/ **Art Unit** 1633

OIPE
JAN 16 2007
PATENT & TRADEMARK OFFICE

10/263159

C of C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): HACKETT et al.

Okay to enter.
/Joe Woitach/

Patent No.: 7,148,203 B2

Issued: December 12, 2006

Docket No.: 110.0045 0102

Title: NUCLEIC ACID TRANSFER VECTOR FOR THE INTRODUCTION OF NUCLEIC ACID INTO THE DNA OF A CELL

Attention Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

We are transmitting the following documents along with this Transmittal Sheet (which is submitted in triplicate):

X **Small entity status is entitled to be asserted in the above-identified application.**
X **An itemized return postcard.**
__ A Petition for Extension of Time for __ month(s). Please charge Deposit Account No. 13-4895 in the amount of $__ for the required fee.
X **Other: Request for Certificate of Correction (1 pg); Certificate of Correction (1 pg. in duplicate).**
X **Please charge the amount of $100. to Deposit Account 13-4895 to cover the certificate fee.**
__ Amendment __ No Additional fee is required. __ The fee has been calculated as shown:

Fee Calculation for Claims Pending After Amendment					
	Pending Claims after Amendment (1)	Claims Paid for Earlier (2)	Number of Additional Claims (1-2)	Cost per Additional Claim	Additional Fees Required
Total Claims				x $25 =	
Independent Claims				x $100 =	
One or More New Multiple Dependent Claims Presented? If Yes, Add $180 Here →					
Total Additional Claim Fees Required					

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers and please charge any additional fees or credit overpayment to Deposit Account No. 13-4895. Triplicate copies of this sheet are enclosed.

CERTIFICATE UNDER 37 C.F.R. §1.8: The undersigned hereby certifies that this Transmittal Letter and the paper(s), as described hereinabove, are being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 10 day of January, 2007.

MUETING, RAASCH & GEBHARDT, P.A.
Customer Number: 268

Certificate
JAN 18 2007
of Correction

By: David L Provence
Name: Davd L. Provence
Reg. No.: 43,022
Direct Dial: 612-305-1005
Facsimile: 612-305-1228

(SMALL ENTITY TRANSMITTAL UNDER RULE 1.8)

JAN 19 2007

OIPE
JAN 16 2007
PATENT & TRADEMARK OFFICE

PATENT
Docket No. 110.0045 0102

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): HACKETT et al.

Patent No.: 7,148,203 B2

Issued: December 12, 2006

For: NUCLEIC ACID TRANSFER VECTOR FOR THE INTRODUCTION OF NUCLEIC ACID INTO THE DNA OF A CELL

REQUEST FOR CERTIFICATE OF CORRECTION

Attention Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A Certificate of Correction is requested to be issued correcting printing errors appearing in the above-identified United States patent. Two copies of the text noting the corrections for the Certificate are enclosed. Since the errors listed are due to Applicants' mistake, please charge to PTO Deposit Account No. 13-4895, the amount of $100 to cover the Certificate fee under 37 C.F.R. §1.20(a). The corrections in the proposed Certificate of Correction do not involve such changes in the patent as would constitute new matter or would require reexamination.

Please mail the printed Certificate of Correction to the undersigned attorney.

CERTIFICATE UNDER 37 C.F.R. 1.8:

The undersigned hereby certifies that this paper is being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 10 day of January, 2007.

Name: David L. Provence

January 10, 2007
Date

01/17/2007 MBELETE1 00000007 134895 7148203
01 FC:1811 100.00 DA

Respectfully submitted
By
Mueting, Raasch & Gebhardt, P.A.
P.O. Box 581415
Minneapolis, MN 55458-1415
Phone: (612)305-1220
Facsimile: (612)305-1228
Customer Number 26813

By:
David L. Provence
Reg. No. 43,022
Direct Dial (612)305-1005

JAN 19 2007

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 7,148,203 B2
DATED: December 12, 2006
INVENTOR(S): HACKETT 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 1, Line 21
Delete "R01-RR0625" and insert --R01-RR06625--
Delete "USDOC/"

Column 1, Line 22
delete "NA46RG O101-04" and insert --NA46RG 0101-04--

MAILING ADDRESS OF SENDER:

MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS, MINNESOTA 55401
Customer Number 26813

PATENT NO. 7,148,203 B2

No. of add'l copies

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 7,148,203 B2
DATED: December 12, 2006
INVENTOR(S): HACKETT 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 1, Line 21
Delete "R01-RR0625" and insert --R01-RR06625--
Delete "USDOC/"

Column 1, Line 22
delete "NA46RG O101-04" and insert --NA46RG 0101-04--

MAILING ADDRESS OF SENDER:

MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS, MINNESOTA 55401
Customer Number 26813

PATENT NO. 7,148,203 B2

No. of add'l copies

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JAN 19 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

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Irvine CA 92614

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MAR 0 4 2003

OFFICE OF PETITIONS

In re Application of
Nakanishi, et al.
Application No. 10/263,166
Filed: October 2, 2002
Attorney Docket No. NAK1-BM63a
For: OPTICAL PICKUP WITH IMPROVED OPTICAL PROPERTIES

DECISION GRANTING PETITION

This is a decision on the petition entitled, "PETITION RE OMITTED DRAWING FIGURE," filed January 13, 2003 (certificate of mailing date January 6, 2003), requesting, in effect, withdrawal of the Notice of Omitted Items In a Nonprovisional Application (Notice), mailed November 14, 2002. The petition will be treated under 37 CFR 1.53(e).

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 was filed on October 2, 2002. On November 14, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that Figure 8 described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that Figure 8 be accorded a filing date of October 2, 2002 on the basis that 29 sheets of drawing figures, including Figure 8, were received in the Patent and Trademark Office (PTO) on October 2, 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 October 2, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 29 sheets of drawings. A review of the originally filed application papers reveals that only 28 sheets of drawing figures are present.

The return postcard constitutes *prima facie* evidence that 29 sheets of drawing figures, including Figure 8, were filed on October 2, 2002. MPEP 503. Accordingly, the request is granted.

No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of October 2, 2002, using the copy of Figure 8 submitted with the instant petition. Office records will be corrected to show that 29 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

cc: JOSEPH W. PRICE
1920 MAIN STREET, SUITE 1200
IRVINE CA 92614

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JUL 19 2006

OFFICE OF PETITIONS
Paper No. 11

GOLD & RIZVI, P.A.
600 N. PINE ISLAND ROAD
SUITE 450
PLANTATION FL 33324-1311

In re Application of :
Dominique M. Barteet :
Application No. 10/263,179 : ON PETITION
Filed: October 3, 2002 :
Attorney Docket No. 1059.0100 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 03, 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 December 23, 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 March 24, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $750; and the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of December 23, 2003 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Mikhail Kornakov at (571) 272-1303 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3728 for appropriate action on the concurrently filed amendment.

David A. Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/263,180	10/03/2002	Patrick Pesnell	019.002	3087

28635 7590 09/18/2009

JOE D. CALHOUN
P.O. BOX 251504
LITTLE ROCK, AR 72225

EXAMINER	
CHENG, JOE H	
ART UNIT	**PAPER NUMBER**
3713	

NOTIFICATION DATE	DELIVERY MODE
09/18/2009	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):

joecalhoun@aristotle.net
R.Norment@CalhounLawFirm.com
assistant@calhounlawfirm.com

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

DATE: September 11, 2009
TO: Certificates of Correction Branch
FROM: Xuan Thai
SPE, Art Unit 3715
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,008,231 as specified on the attached Certificate.

Xuan Thai, SPE
Art Unit 3715

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,008,231
Patented: March 7, 2006

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Patrick C. Pesnell
Little Rock, Arkansas

Glenn Erskine
Granbury, Texas

Lance G. Strother
Broussard, Louisiana

Xuan Thai
Supervisory Patent Examiner
Art Unit 3715

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

March 8, 2005

Michele A. Cimbala
Sterne, Kessler, Goldstein & Fox
1100 New York Ave., N. W.
Suite 600
Washington, D. C. 2005-3934

In re application of:
Better et al
Serial No.: 10/263,182
Filed: October 3, 2002
For: **PRODUCTION OF CHIMERIC MOUSE-HUMAN ANTIBODIES WITH SPECIFICITY TO HUMAN TUMOR ANTIGENS**

In response to the petition received on January 2, 2003, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The application was abandoned in error. The office regrets any inconvenience this may have caused the client.

The application has been completed and released to Technology Center 1644.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Michele A. Cimbala
Sterne Kessler Goldstein Fox
1100 New York Avenue, NW
Washington, DC 20005

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MAR 0 9 2007

OFFICE OF PETITIONS

In re Application of
BETTER et al.
Application no.: 10/263,182
Filing Date: October 3, 2002
Attorney Docket No.: 0610.055000A/MAC
For: PRODUCTION OF CHIMERIC MOUSE-HUMAN ANTIBODIES WITH SPECIFICITY TO HUMAN TUMOR ANTIGENS

DECISION

This decision is in response to applicants' "Petition under 37 CFR 1.182 to Award a Benefit Claim and Request under 37 CFR 1.221(b) to Republish a Patent Application when the Office Makes a Material Mistake that Apparent from Office Record" filed in the United States Patent and Trademark Office (USPTO) filed on 04 November 2005. Applicants' petition is being treated as a request for corrected filing receipt under 37 CFR 1.181. The $400 petition fee will be refunded to Deposit Account no. 19-0036.

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

The above-identified application received an Official Filing Receipt which indicated, "[t]his application is CON of 08/467,142 (filed) 06/06/1995 which is a PAT 6,461,824 which is CON of 08/364,001 (filed) 12/27/1994 PAT 5,576,14 which is a CON of 07/659,401 (filed) 05/06/1991 which is abandoned." Applicants state in the present petition that "OIPE has refused to recognize that one of Applicants' benefit documents is a U.S. national stage application and therefore denied benefit to that case and its earlier benefit cases." Specifically, OIPE has failed to indicate that application no. 07/659,401 is the national stage application of PCT/US89/03852 which the claims the benefit of six (other) U.S. application. A review of PALM records reveals that application no. 07/659,401 (filed) 05/06/1991 is the not the national stage application of PCT/US89/03852. However, upon review of the file wrapper, application no. 07/659,401 is the national stage application of PCT/US89/03852. Further, a Notification of Acceptance of Application under 35 U.S.C. 371 identifying 07/659,401 as the national stage application of PCT/US89/03852 was mailed on 29 July 2001. Therefore, applicants' petition under 37 CFR 1.181 is **GRANTED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision, that is, for: (1) issuing a corrected filing receipt; (2) correcting PALM database for application no. 07/659,401, which

is the national stage application of PCT/US89/03852 and claims the benefit of six (other) U.S. application; and (3) forwarding the application to the Office of Publications.

Thereafter, the application is being referred back to GAU 1644 for further processing.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: 571-272-3298
Fax: 571-273-0459

Enclosure: Corrected Filing Receipt

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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
10/263,182	10/03/2002	1644	1260	0610.055000A	38	8

CONFIRMATION NO. 3286

CORRECTED FILING RECEIPT

26111
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

OC000000022814843

Date Mailed: 03/08/2007

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)

Marc D. Better, Los Angeles, CA;
Arnold H. Horwitz, Los Angeles, CA;
Randy R. Robinson, Los Angeles, CA;
Shau-Ping Lei, Los Angeles, CA;
Changtung Paul Chang, Chatsworth, CA;

Assignment For Published Patent Application

XOMA Technology Ltd.

Power of Attorney: The patent practitioners associated with Customer Number **26111**.

Domestic Priority data as claimed by applicant

This application is a CON of 08/467,142 06/06/1995 PAT 6,461,824
which is a CON of 08/364,001 12/27/1994 PAT 5,576,184
which is a CON of 07/659,401 ABN
which is a 371 of PCT/US89/03852 09/06/1989
which is a CIP of 07/240,624 09/06/1988 ABN
and is a CIP of 07/241,744 09/08/1988 ABN
and is a CIP of 07/243,739 09/13/1988 ABN
and is a CIP of 07/367,641 06/19/1989 ABN
and is a CIP of 07/382,768 07/21/1989 ABN
and is a CIP of 07/253,002 10/04/1988 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 11/27/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/263,182

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Production of chimeric mouse-human antibodies with specificity to human tumor antigens

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Valerie Niddam-Hildesheim	: DECISION ON REQUEST FOR
Patent Number	: 7629458	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/263,192	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/03/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN TX 78716-0727

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APR 16 2008

In re Application of	:	
KARAOGUZ, et al.	:	
Application No. 10/263,215	:	DECISION ON PETITION
Filed: October 2, 2002	:	
Attorney Docket No. **BP 2072**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 20, 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 May 8, 2007, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed February 8, 2007. Accordingly, the date of abandonment of this application is May 9, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected formal drawings , (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

The drawings have been approved by the USPTO draftsperson.

It is noted that 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 Monica A. Graves at (571) 272-7253.

This application is being referred to the Office of Data Management for processing into a patent.

Sherry D. Blinkley
Petitions Examiner
Office of Petitions

Cc: **BRUCE E. GARLICK**
2517 INPROVER ROAD
SPICEWOOD, TX 78669

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Paper No. 4

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

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JAN 17 2003

OFFICE OF PETITIONS

In re Application of :
Park et al. :
Application No. 10/263,223 :
Filed: October 2, 2002 : ON PETITION
Attorney Docket No.: 5646-60 :

This is a response to the Petition Regarding Notice of Omitted Items in a Non-Provisional Application, filed November 25, 2002, requesting that the above-identified application be accorded a filing date of October 2, 2002, including Figure 6 as described in the specification.

The petition is **dismissed**.

The application was deposited on October 2, 2002. However, on November 8, 2002, Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application (hereinafter "Notice"), informing Petitioner that Figure 6 described in the specification appeared to have been omitted.

In response, Petitioner files the instant petition wherein Petitioner avers that, as FIG.4 illustrates, "FIG. 6 covers the block diagrams of FIGS. 6A-6D. Accordingly, references to FIG.6 in the written specification are directed to the combination of block diagrams of FIGS. 6A-6D." This, Petitioner argues, demonstrates that the omitted item was deposited concurrently with the application.

A review of the specification reveals specific reference to FIG.6, in addition to references to FIG. 6A-6D. At page 8, line 15, it reads "FIG. 6 is a block diagram of a hierarchical priority resolution circuit according to an embodiment of the present invention." A further review of the specification reveals specific reference to FIG.6A - FIG.6D, in lines 17, 20, 23 and 26 respectively.

A review of the application file reveals that no FIG.6 was deposited with the application on October 22, 2002. It is also noted that Petitioner does not asseverate the presence of a FIG.6 which is a "block diagram of a hierarchical priority resolution circuit according to an embodiment of the present invention."

Petitioner has not presented sufficient evidence to demonstrate that FIG.6 was present in the Office on October 22, 2002, when the application was deposited with this Office.

Petitioner's argument appears to indicate that Figure 6 contains no new matter. Petitioner is advised that a petition is not necessary in this instance to add the drawing figure. Applicants may add figure(s) described in the specification on the basis that the drawings are not new matter. New drawings may be entered by the primary examiner without a petition so long as the drawings contain no new matter. See, MPEP § 608.02(a).

An amendment adding Figure 6, or canceling the reference to Figure 6 in the specification, should be filed prior to the first Office action in order to avoid further delays in the prosecution of the application. The drawing of Figure 6 will not be entered as part of the original disclosure.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 22, 2002, using figures 1-5 and 6A-1 through 10-2, and an indication that 21 sheets of drawings were present on filing.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Christina Tartera Donnell

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Conferee: Christina T. Donnell

UNITED STATES PATENT AND TRADEMARK OFFICE

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VALLEY FORGE PA 19482-0980

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APR 2 7 2005

OFFICE OF PETITIONS

In re Application of :
Toshifumi Nakatani et al :
Application No. 10/263,252 : ON PETITION
Filed: October 2, 2002 :
Attorney Docket No. MTS-3376US :

This is a decision on the petition, filed April 26, 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 8, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2817 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

THE LAW OFFICE OF JILL L. WOODBURN, L.L.C.
JILL L. WOODBURN
128 SHORE DR.
OGDEN DUNES IN 46368

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SEP 11 2006
OFFICE OF PETITIONS

In re Application of :
Klaus-Dieter Sacherer et al. :
Application No. 10/263,266 :
Filed: October 2, 2002 : DECISION ON PETITION
Attorney Docket No. WP 18708 : UNDER 37 C.F.R. §1.137(B)
US1 Title: STORAGE CONTAINER :
FOR ANALYTICAL DEVICES :

This is a decision on the petition filed June 23, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed November 3, 2005, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R §1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on February 4, 2006. A notice of abandonment was mailed on May 23, 2006.

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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.

With the present petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. Petitioner has further included a Request for Continued Examination (RCE) under 37 C.F.R. §1.114 and the associated fee.

No terminal disclaimer is required. The RCE has been accepted as the required reply under 37 C.F.R. §1.137(b)(1). The concurrently submitted amendment shall serve as the required submission.

As such, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment of June 23, 2006 can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

2 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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JJGJR.: 06-06

Paper No: __

THE LAW OFFICE
OF JILL L. WOODBURN, L.L.C.
JILL L. WOODBURN
128 SHORE DR.
OGDEN DUNES IN 46368

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JUL 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Schabbach, et al.	:	DECISION
Application No.: 10/263,267	:	
Filing Date: 1 October, 2002	:	
Attorney Docket No. WP 18920 US2	:	

This is a decision on the petition filed on 20 March, 2006, to withdraw the holding of abandonment and is considered under 37 C.F.R. §1.181

The Office regrets the delay in addressing this matter–the instant decision was prepare and signed and sent for mailing in June 2006, however, the Office apparently failed to mail the decision at that time.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- Petitioner failed to reply to a non-final Office action mailed on 28 July, 2005, with reply due absent an extension of time on or before 28 October, 2005;
- the application went abandoned by operation of law after midnight 28 October, 2005;
- the Office mailed the Notice of Abandonment on 23 February, 2006;
- 20 March, 2006, Petitioner filed a petition and averred, *inter alia*, enclosure of copies of papers filed 11 October, 2005, however, of the 14 sheets averred to be contained in the 20 March, 2006, submission, only one of those were included in the five (5) pages presented in evidence–and, more importantly, Petitioner has failed to provide a copy of the papers–the reply–averred to have been submitted at that time.

A copy of the reply is necessary for the application to be returned to the Technology Center for further processing in due course.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing

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(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]

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(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]

The commentary at MPEP §711.03(c) provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides

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[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

prima facie evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

* * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner must supply a copy of the reply averred to have been timely submitted to and received by the Office.

CONCLUSION

Because it appears that Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**.

ALTERNATIVE VENUE

Petitioner's only alternative to irretrievable abandonment may be a petition alleging unavoiable or unintentional delay under 37 C.F.R. §1.137(a) or (b).[9]

Petitioner may wish to file such a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:[10]

By mail: Commissioner for Patents[11]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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[9] The regulations at 37 C.F.R. §1.183 sets forth that waiver of the rules is "subject to such other requirements as may be imposed."

[10] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[11] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[12]) 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

[12] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 010-07

Paper No: __

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OFFICE OF PETITIONS

THE LAW OFFICE
OF JILL L. WOODBURN, L.L.C.
JILL L. WOODBURN
128 SHORE DR.
OGDEN DUNES IN 46368

In re Application of
Schabbach, et al.
Application No.: 10/263,267
Filing Date: 1 October, 2002
Attorney Docket No. WP 18920 US2

DECISION

This is a decision on the petition filed on 17 September, 2007, to withdraw the holding of abandonment and is considered under 37 C.F.R. §1.181

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply to a non-final Office action mailed on 28 July, 2005, with reply due absent an extension of time on or before 28 October, 2005;
- the application went abandoned by operation of law after midnight 28 October, 2005;
- the Office mailed the Notice of Abandonment on 23 February, 2006;
- 20 March, 2006, Petitioner filed a petition and averred, *inter alia*, enclosure of copies of papers filed 11 October, 2005, however, of the 14 sheets averred to be contained in the 20 March, 2006, submission, only one of those were included in the five (5) pages presented

in evidence–and Petitioner failed to provide a copy of the papers–the reply–averred to have been submitted at that time–and so the petition was dismissed on 24 July, 2007;

- the instant petition seeks to overcome those deficiencies, and Petitioner acknowledges therein that the transmittal papers filed in reply to the Office action in question carried an incorrect application number–to wit: Application No.: 10/263,907, what Petitioner avers is a sibling application, and Application No.: 10/273,267–rather than the correct data, Application No.: 10/263,267, but Petitioner avers that the other information was sufficient for the Office to get it right and direct the papers to Petitioner's correct Application No.: 10/263,267.

Petitioner also appears confused that the earlier decision indicated that papers were missing from her petition–which they were, whether due to error by the Petitioner or the Office.

Notably, the availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner immediate and on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing

---

(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]

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(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]

The commentary at MPEP §711.03(c) provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides

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[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

prima facie evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

* * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears now to have satisfied the requirements herein.

CONCLUSION

Petitioner has satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **granted** and the 23 February, 2006, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 1700 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

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[9] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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www.uspto.gov

NASA JOHNSON SPACE CENTER
Mail Code HA
2101 NASA Rd. 1
Houston, TX 77058

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SEP 15 2006

OFFICE OF PETITIONS

In re Application of
GONDA *et al*
Application No.: 10/263,280
Filing Date: September 25, 2002
Docket No.: MSC-22863-1-SB
For: CENTRIFUGAL ADSORPTION SYSTEM

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

This is a decision on the petition to revive under 37 CFR 1.137(b) filed on April 20, 2005.

The petition under 1.137(b) is hereby **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to a Notice of Allowance and Fee(s) Due mailed October 14, 2004. The Office Action set a non-extendable three (3) month period for reply.

Petitioners have met the requirements for revival under 37 CFR 1.137(b). Petitioners submitted the required issue and publication fee, paid the $1,500.00 petition fee and made the required statement of unintentional delay. No terminal disclaimer is required.

Accordingly, all requirements of 37 CFR 1.137(b) have been satisfied.

This application is being forwarded to Art Unit 1724g for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel: 571-272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

td

Mailed: 1-3-06

In re application of	:	
Philip S. Kaylor	:	DECISION ON
Serial No. 10/263,305	:	PETITION
Filed: October 1, 2002	:	
For: MULTI DENSITY FIBER SEAT BACK		

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION, mailed July 27, 2005.

It is noted that the examiner has reopened prosecution and a non-final office action was mailed on December 14, 2005.

Accordingly, the instant petition is **DISMISSED**.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

CONLEY ROSE, P.C.
5700 GRANITE PARKWAY, SUITE 330
PLANO TX 75024

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NOV 17 2004

WILLIAMS, MORGAN & AMERSON, P.C.
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

In re Application of	:
Dainis Dakternieks et al	:
Serial No.: 10/263,360	: PETITION DECISION
Filed: October 1, 2002	:
Attorney Docket No.: 4420.000900	:

This is in response to the petition under 37 CFR 1.181, filed September 8, 2004, for withdrawal of abandonment based on non-receipt of an Office action. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed a Final Office action to applicants on December 30, 2003, setting a three month shortened statutory period for reply. No reply to the Office action has been received and the application is technically abandoned, however no Notice of Abandonment has been mailed to applicants. A review of the Final Office action shows that it was mailed to an incorrect address, applicants having filed a proper change of correspondence address with the Office well in advance of the Office action being mailed out. It is unclear why the change of address was not effected on Office records. In view of the Office error the application remains in a pending status and the Office action of December 30, 2003, will be mailed to the correct address now of record.

The petition is **GRANTED**.

The Office action of December 30, 2003, will be remailed in due course.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 703-872-9306.

Bruce M. Kisliuk
Director, Technology Center 1600

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

FULWIDER PATTON LEE & UTECHT, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES CA 90045

COPY MAILED

MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Richard D. Grossman :
Application No. 10/263,362 : DECISION ON PETITION
Filed: October 1, 2002 :
Attorney Docket No.: :
GROSR-62087 :
Title: SKATEBOARD ASSEMBLY WITH :
SHOCK ABSORBING SUSPENSION SYSTEM :

This is a decision on the petition filed December 22, 2004, requesting that the above-identified application, including page 11 of the specification, be accorded a filing date of October 1, 2002 as part of the original disclosure.

The application was deposited on October 1, 2002. However, on October 26, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (notice), stating that the application had been accorded a filing date, and advising applicants that page 11 of the specification appeared to have been omitted. The notice set a two-month period of reply.

In response, on December 22, 2004, applicants filed the present petition. The petition is further accompanied by a copy of page 11 of the specification, along with a copy of applicants' postcard receipt acknowledging receipt of "15 pgs specification" in the United States Patent and Trademark Office (Office) on October 1, 2002. Applicants request that page 11 of the specification be accorded a filing date of October 1, 2002.

It is noted that 15 pages of specification have been located in the electronic file, including figure 11.

The above-mentioned page has been located among the application papers. Therefore, the application, including page 11 of the

specification, was complete on filing and entitled to a filing date of October 1, 2002 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed October 26, 2004 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary, and the petition fee will be refunded to Petitioner's Deposit Account, as authorized in the petition.

The application file is being returned to OIPE for further processing with a filing date of October 1, 2002, using the original application papers filed on that date, as well as page 11 of the specification submitted on December 22, 2004, and for noting in Office records that this sheet was present on filing.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 3-21-05

2 Serial/Patent # 10/263,362

	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	None	12-22-04	$ 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 | 0 | 6 | -- | 2 | 4 | 2 | 5 |

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Notice of missing parts was mailed in error

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Paul Shanoski TITLE: Senior Attny

SIGNATURE: Paul Shanoski PHONE: 571-272-3225

OFFICE: Ofc of Petitions

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APPROVED: Ofc of Petitions DATE: 3/31/05

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