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Paper No. 6

THE HECKLER LAW GROUP
1925 CENTURY PARK EAST
SUITE 2300
LOS ANGELES, CA 90067

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JUN 0 2 2003

OFFICE OF PETITIONS

In re Application of
Mills et al.
Application No. 10/263,365
Filed: October 2, 2002
Attorney Docket No. 83475.925

ON PETITION

This decision concerns the May 5, 2003 petition under 37 CFR 1.47(a).

The petition is **DISMISSED.**

Six inventors are named in this application which, upon filing, did not include an oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on October 31, 2002, giving Applicants an extendable 2-month period to submit, *inter alia*,[1] a properly signed oath/declaration. The instant petition then followed,[2] stating that 5 of the 6 joint-inventors refuse to join in this application, and requesting in essence that the assignee be allowed to file this application on behalf of, and as agent for, all the inventors. The petition encloses a declaration signed by the remaining inventor, Andrew Mills ("Mills") ("5/5/03 Declaration"). Therefore, the petition is being properly treated as a petition, under 37 CFR 1.47(a), that Mills be allowed to file this application on behalf of himself and the non-signing inventors.

Mills may file the application on behalf of himself as well as the 5 non-signing inventors, provided that a *bona fide* attempt has been made to present to the non-signing inventors, for review and signature, a copy of the entire application (specification including claims; drawings), and those inventors refuse to sign the application declaration.[3] To show that the 5 joint-inventors have refused to sign the declaration despite such a *bona fide* attempt, the petition must include, *inter alia*, a statement of facts, signed by a person with firsthand knowledge of the facts recited therein, concerning the circumstances of the presentation of the application papers to the non-signing inventors at their last known addresses,[4] and their subsequent refusals.

The instant petition, in conjunction with the exhibits, indicates that a *bona fide* attempt has been made to present to the non-signing inventors a copy of the entire application (specification including claims; drawings), and that the latter refused to sign the application declaration.

---

1 Also missing were the application basic filing fee and the extra claims fee.

2 Certificate of Mailing date 4/28/03; petition accompanied by a 4-month extension of time and the requisite fee.

3 MPEP section 409.03(d) (Rev.1, Feb. 2003).

4 37 CFR 1.47(a); MPEP section 409.03(e) (Rev. 1, Feb. 2003).

However, the Office notes that Mills corrected his citizenship in the 5/5/03 Declaration without initialing and dating the alteration. The 5/5/03 Declaration is thus defective and not accepted, rendering the petition subject to dismissal.

To prevent abandonment of this application,[5] one of the following must be submitted within **TWO MONTHS** of the mailing date of this decision:[6]

(1) an oath/declaration properly signed by all inventors;[7]

or

(2) a renewed §1.47(a) petition (no fee) that includes a declaration re-executed by Mills to correct his citizenship.[8]

The renewed §1.47(a) petition should be addressed as follows:

by mail/by hand:	Commissioner for Patents, USPTO Office of Petitions Crystal Plaza Four, Suite CP4-3C23 2201 South Clark Place Arlington, VA 22202
by fax:	(703) 308-6916 Attn: Office of Petitions

Finally, the Office acknowledges receipt with the petition of the $130 petition fee. As authorized, the $130 surcharge for failure to submit an acceptable oath/declaration upon filing of the application has been charged to Deposit Account No. 08-1520.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

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[5] See 37 CFR 1.53(f) (If an application which has been accorded a filing date . . . does not include an oath or declaration . . . pursuant to §1.63 . . . , applicant will be notified and given a period of time within which to . . . file an oath or declaration . . . to avoid abandonment).

[6] Unless proper extension(s) of time under 37 CFR 1.136(a) is (are) obtained.

[7] Submit directly to the Office of Initial Patent Examination along with a copy of this decision.

[8] See MPEP section 601.05 (Rev. 1, Feb. 2003): "[T]he setting forth of the citizenship of each inventor must be provided in the oath/declaration . . . even if [already] provided in the application data sheet." A supplemental application data sheet containing Mills' correct citizenship should also be submitted. **The renewed petition should only supplement the instant petition, and not re-iterate any information/argument already submitted.**

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SUITE 2300
LOS ANGELES, CA 90067

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OFFICE OF PETITIONS

In re Application of
Mills et al.
Application No. 10/263,365
Filed: October 2, 2002
Attorney Docket No. 83475.925

ON PETITION

This decision concerns the May 5, 2003 petition under 37 CFR 1.47(a).

The petition is **DISMISSED.**

Six inventors are named in this application which, upon filing, did not include an oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on October 31, 2002, giving Applicants an extendable 2-month period to submit, *inter alia*,[1] a properly signed oath/declaration. The instant petition then followed,[2] stating that 5 of the 6 joint-inventors refuse to join in this application, and requesting in essence that the assignee be allowed to file this application on behalf of, and as agent for, all the inventors. The petition encloses a declaration signed by the remaining inventor, Andrew Mills ("Mills") ("5/5/03 Declaration"). Therefore, the petition is being properly treated as a petition, under 37 CFR 1.47(a), that Mills be allowed to file this application on behalf of himself and the non-signing inventors.

Mills may file the application on behalf of himself as well as the 5 non-signing inventors, provided that a *bona fide* attempt has been made to present to the non-signing inventors, for review and signature, a copy of the entire application (specification including claims; drawings), and those inventors refuse to sign the application declaration.[3] To show that the 5 joint-inventors have refused to sign the declaration despite such a *bona fide* attempt, the petition must include, *inter alia*, a statement of facts, signed by a person with firsthand knowledge of the facts recited therein, concerning the circumstances of the presentation of the application papers to the non-signing inventors at their last known addresses,[4] and their subsequent refusals.

The instant petition, in conjunction with the exhibits, indicates that a *bona fide* attempt has been made to present to the non-signing inventors a copy of the entire application (specification including claims; drawings), and that the latter refused to sign the application declaration.

---

1 Also missing were the application basic filing fee and the extra claims fee.

2 Certificate of Mailing date 4/28/03; petition accompanied by a 4-month extension of time and the requisite fee.

3 MPEP section 409.03(d) (Rev.1, Feb. 2003).

4 37 CFR 1.47(a); MPEP section 409.03(e) (Rev. 1, Feb. 2003).

However, the Office notes that Mills corrected his citizenship in the 5/5/03 Declaration without initialing and dating the alteration. The 5/5/03 Declaration is thus defective and not accepted, rendering the petition subject to dismissal.

To prevent abandonment of this application,[5] one of the following must be submitted within **TWO MONTHS** of the mailing date of this decision:[6]

(1) an oath/declaration properly signed by all inventors;[7]

or

(2) a renewed §1.47(a) petition (no fee) that includes a declaration re-executed by Mills to correct his citizenship.[8]

The renewed §1.47(a) petition should be addressed as follows:

by mail/by hand: Commissioner for Patents, USPTO
Office of Petitions
Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

by fax: (703) 308-6916
Attn: Office of Petitions

Finally, the Office acknowledges receipt with the petition of the $130 petition fee. As authorized, the $130 surcharge for failure to submit an acceptable oath/declaration upon filing of the application has been charged to Deposit Account No. 08-1520.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

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[5] See 37 CFR 1.53(f) (If an application which has been accorded a filing date . . . does not include an oath or declaration . . . pursuant to §1.63 . . . , applicant will be notified and given a period of time within which to . . . file an oath or declaration . . . to avoid abandonment).

[6] Unless proper extension(s) of time under 37 CFR 1.136(a) is (are) obtained.

[7] Submit directly to the Office of Initial Patent Examination along with a copy of this decision.

[8] See MPEP section 601.05 (Rev. 1, Feb. 2003): "[T]he setting forth of the citizenship of each inventor must be provided in the oath/declaration . . . even if [already] provided in the application data sheet." A supplemental application data sheet containing Mills' correct citizenship should also be submitted. **The renewed petition should only supplement the instant petition, and not re-iterate any information/argument already submitted.**

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Paper No. 9

THE HECKER LAW GROUP
1925 CENTURY PARK EAST
SUITE 2300
LOS ANGELES, CA 90067

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JUN 3 0 2003

OFFICE OF PETITIONS

In re Application of
Mills et al.
Application No. 10/263,365
Filed: October 2, 2002
Attorney Docket No. 83475.925

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

This decision concerns the June 17, 2003 renewed petition under 37 CFR 1.47(a).

The petition is **GRANTED.**

The previous petition under 37 CFR 1.47(a), filed on May 5, 2003, was dismissed on June 2, 2003, in that, the declaration included an un-initialed and undated alteration in the citizenship of the only available inventor, Andrew Mills ("Mills").

The instant renewed petition encloses a newly executed and un-altered "Declaration and Power of Attorney for Patent Application." The petition is thus granted.

The application is now complete.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to the 5 non-signing inventors, at the last known address provided for each of them in the May 5, 2003 petition:

Ralph Andersson
11701 Thomas Ranch Circle
Nevada City, CA 95959

Michael Behrin
11593 Forest View Drive
Nevada City, CA 95959

Michael Nootbaar
10706 James Lane
Nevada City, CA 95959

David Rosky
11937 Incline Shaft Road
Nevada City, CA 95959

Anthony Worsham
645 10th Street
Oakmont, PA 15139

Notice of the filing of this application will also be published in the *Official Gazette*.

The application file is being forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

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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Ralph Andersson
11701 Thomas Ranch Circle
Nevada City, CA 95959

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JUN 3 0 2003

OFFICE OF PETITIONS

In re Application of
Mills et al.
Application No. 10/263,365
Filed: October 2, 2002
For: METHOD AND APPARATUS FOR TRANSPARENT IMPLEMENTATION OF LINK-SUSPEND CAPABILITIES IN NETWORK DEVICES

LETTER

Dear Mr. Andersson,

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 for the United States Patent and Trademark Office [USPTO]). 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 pursuant to 37 CFR 1.19), or make your position of record in the application. Alternatively, you may do any of the aforementioned through an attorney or agent registered to practice before the USPTO and 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.

Requests for information regarding this application should be directed to the File Information Unit at (703) 308-2733. For information on how to order a copy of the application or a specific paper in the application, contact the Certification Division at (703) 308-9726 or 1-(800) 972-6382 (outside the Washington DC area). Telephone inquiries regarding this letter should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

cc: Obi I. Iloputaife, Esq.
The Hecker Law Group
1925 Century Park East
Suite 2300
Los Angeles, CA 90067

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Michael Behrin
11593 Forest View Drive
Nevada City, CA 95959

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JUN 3 0 2003

OFFICE OF PETITIONS

LETTER

In re Application of
Mills et al.
Application No. 10/263,365
Filed: October 2, 2002
For: METHOD AND APPARATUS FOR TRANSPARENT IMPLEMENTATION OF LINK-SUSPEND CAPABILITIES IN NETWORK DEVICES

Dear Mr. Behrin,

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 for the United States Patent and Trademark Office [USPTO]). 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 pursuant to 37 CFR 1.19), or make your position of record in the application. Alternatively, you may do any of the aforementioned through an attorney or agent registered to practice before the USPTO and 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.

Requests for information regarding this application should be directed to the File Information Unit at (703) 308-2733. For information on how to order a copy of the application or a specific paper in the application, contact the Certification Division at (703) 308-9726 or 1-(800) 972-6382 (outside the Washington DC area). Telephone inquiries regarding this letter should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

cc: Obi I. Iloputaife, Esq.
The Hecker Law Group
1925 Century Park East
Suite 2300
Los Angeles, CA 90067

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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Michael Nootbaar
10706 James Lane
Nevada City, CA 95959

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JUN 3 0 2003

OFFICE OF PETITIONS

LETTER

In re Application of
Mills et al.
Application No. 10/263,365
Filed: October 2, 2002
For: METHOD AND APPARATUS FOR TRANSPARENT IMPLEMENTATION OF LINK-SUSPEND CAPABILITIES IN NETWORK DEVICES

Dear Mr. Nootbaar,

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 for the United States Patent and Trademark Office [USPTO]). 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 pursuant to 37 CFR 1.19), or make your position of record in the application. Alternatively, you may do any of the aforementioned through an attorney or agent registered to practice before the USPTO and 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.

Requests for information regarding this application should be directed to the File Information Unit at (703) 308-2733. For information on how to order a copy of the application or a specific paper in the application, contact the Certification Division at (703) 308-9726 or 1-(800) 972-6382 (outside the Washington DC area). Telephone inquiries regarding this letter should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

cc: Obi I. Iloputaife, Esq.
The Hecker Law Group
1925 Century Park East
Suite 2300
Los Angeles, CA 90067

UNITED STATES PATENT AND TRADEMARK OFFICE

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

David Rosky
11937 Incline Shaft Road
Nevada City, CA 95959

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JUN 3 0 2003

OFFICE OF PETITIONS

LETTER

In re Application of :
Mills et al. :
Application No. 10/263,365 :
Filed: October 2, 2002 :
For: METHOD AND APPARATUS FOR TRANSPARENT IMPLEMENTATION OF LINK-SUSPEND CAPABILITIES IN NETWORK DEVICES :

Dear Mr. Rosky,

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 for the United States Patent and Trademark Office [USPTO]). 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 pursuant to 37 CFR 1.19), or make your position of record in the application. Alternatively, you may do any of the aforementioned through an attorney or agent registered to practice before the USPTO and 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.

Requests for information regarding this application should be directed to the File Information Unit at (703) 308-2733. For information on how to order a copy of the application or a specific paper in the application, contact the Certification Division at (703) 308-9726 or 1-(800) 972-6382 (outside the Washington DC area). Telephone inquiries regarding this letter should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

cc: Obi I. Iloputaife, Esq.
The Hecker Law Group
1925 Century Park East
Suite 2300
Los Angeles, CA 90067

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Anthony Worsham
645 10th Street
Oakmont, PA 15139

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JUN 30 2003

OFFICE OF PETITIONS

In re Application of
Mills et al.
Application No. 10/263,365
Filed: October 2, 2002
For: METHOD AND APPARATUS FOR TRANSPARENT IMPLEMENTATION OF LINK-SUSPEND CAPABILITIES IN NETWORK DEVICES

LETTER

Dear Mr. Worsham,

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 for the United States Patent and Trademark Office [USPTO]). 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 pursuant to 37 CFR 1.19), or make your position of record in the application. Alternatively, you may do any of the aforementioned through an attorney or agent registered to practice before the USPTO and 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.

Requests for information regarding this application should be directed to the File Information Unit at (703) 308-2733. For information on how to order a copy of the application or a specific paper in the application, contact the Certification Division at (703) 308-9726 or 1-(800) 972-6382 (outside the Washington DC area). Telephone inquiries regarding this letter should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

cc: Obi I. Iloputaife, Esq.
The Hecker Law Group
1925 Century Park East
Suite 2300
Los Angeles, CA 90067

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

FOLEY & LARDNER
P.O. BOX 80278
SAN DIEGO CA 92138-0278

In re Application of
Ethan Bier

Application No. 10/263,367
Filed: October 1, 2002
Attorney Docket No.: 041673-0401
Title: METHOD FOR GENERATING OVEREXPRESSION OF ALLELES IN GENES OF UNKNOWN FUNCTION

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

This is a decision on the petition filed on June 30, 2003, 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 Notice of Missing Parts (notice[2]), mailed November 13, 2002, which set a shortened statutory period for reply of two (2) 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 January 14, 2003.

With this petition, petitioner submitted the petition fee, the filing fee, the fee associated with the late filing of an oath or declaration, and the correct statement of unintentional delay.

The instant petition is not grantable because requirement (1) again has not been satisfied.

---

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 The Notice indicated that the filing fee, an oath or declaration along with the associated fee, and a sequence listing would be required.

Regarding the first requirement above, the petitioner has failed to submit the complete required reply. The required reply consists of a sequence listing and either an oath or a declaration, and neither has been submitted. **No petition can be granted unless petitioner submits this requirement.**

Therefore, this petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

On renewed petition, petitioner must submit the required reply.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

The reply to this letter may be submitted by mail[3], hand-delivery[4], or facsimile[5].

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

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to maintenance fees unless a Change of Correspondence Address Form (PTO/SB/122) is submitted for the above-identified application. A blank Change of Correspondence Address Form (PTO/SB/122) may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

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

Paul Shanoski

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

cc: William C. Fuess
17258 Amarillo Road
Ramona, CA 92065

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.
5 (703) 308-6916 or (703) 305-4257, Attn: Office of Petitions.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 11

FOLEY & LARDNER
P.O. BOX 80278
SAN DIEGO CA 92138-0278

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JAN 0 9 2004

OFFICE OF PETITIONS

In re Application of
Ethan Bier
Application No. 10/263,367
Filed: October 1, 2002
Attorney Docket No.: 041673-0401
Title: METHOD FOR GENERATING OVEREXPRESSION OF ALLELES IN GENES OF UNKNOWN FUNCTION

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

This is a decision on the renewed petition filed on December 31, 2003, 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 Notice of Missing Parts (notice), mailed November 13, 2002, which set a shortened statutory period for reply of two (2) 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 January 14, 2003.

The original petition was dismissed via the mailing of a decision on September 26, 2003, for failure to meet the first requirement above, as the Petitioner failed to submit the complete reply. The petition fee, the filing fee, the fee associated with the late filing of an oath or declaration were submitted, but the petitioner failed to include an oath or declaration and the sequence listing.

With the renewed petition, petitioner has submitted a declaration and a sequence listing.

---

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.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

#5

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FEB 2 4 2003
TRADEMARK OFFICE

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

Paper No. 29

VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA, MN 55343-9185

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FEB 2 2 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Sydney et al.
Application No. 08/740,727
Filed: November 1, 1996
Attorney Docket No. S63.2-5898
For: SELECTIVE COATING OF A BALLOON CATHETER WITH LUBRICIOUS MATERIAL FOR STENT DEPLOYMENT

: DECISION

This is a decision on the petition under 37 CFR 1.47(a) filed December 19, 2000, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.63 where they require that a supplemental declaration be executed by the named inventor.[1] The $130 fee has been received.

The petition is **granted.**

In view of the efforts recounted in the petition to obtain the signature of Mr. Seiber, it is agreed that justice would be served by waiving the requirement for his signature on the supplemental declaration filed December 19, 2000.

The aforementioned supplemental declaration has been accepted, on petition, and placed in the file.

This application is being forwarded to Technology Center 3700.

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

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

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[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

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Paper No. 9

VIDAS ARRETT & STEINKRAUS PA
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA MN 55343-9185

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OFFICE OF PETITIONS

In re Application of Sydney, et al. Application No. 10/263,377 Filed: October 1, 2002 Docket No. S63.2-5898-US03	: : : : :	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the papers filed February 24, 2003, including a decision on petition in application no. 08/740,727, which is being treated as a petition under 37 CFR 1.47(a).

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

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

The above-identified application was filed on October 1, 2002, without an oath or declaration. Accordingly, the Office mailed a Notice to File Missing Parts of Nonprovisional Application on November 18, 2002, requiring an oath or declaration, together with the surcharge for late filing of the oath or declaration. This Notice set a two month period for reply.

In response, applicant filed the instant "petition" on February 24, 2003, made timely by obtaining a one month extension of time and including a Certificate of Mailing dated February 18, 2002. Accompanying the petition was a supplemental declaration executed by joint inventors Gregory T. Sydney, Arthur R. Madenjian, and Annette Belovi, but with the signature block for joint inventor Russ Seiber.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s). The instant petition does not satisfy requirement (1), (3), or (4) above.

Rather, petitioner has supplied a copy of a decision on petition in parent application no. 08/740,727. That decision granted applicant's 37 CFR 1.183 petition to waive the requirements of 37 CFR 1.67 and 1.63 that Seiber sign a supplemental declaration. However, the decision did not accord Rule 47 status in the parent application. Accordingly, petitioner can not supply a copy of that decision to accord Rule 47 status in the instant application.[1]

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

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

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] See MPEP 201.06(c) at 200-38, 200-39.

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Paper No. 12

VIDAS ARRETT & STEINKRAUS PA
6109 BLUE CIRCLE DRIVE
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MINNETONKA MN 55343-9185

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JUL 29 2003

OFFICE OF PETITIONS

In re Application of Sydney, et al. Application No. 10/263,377 Filed: October 1, 2002 Docket No. S63.2-5898-US03	: : : : :	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed June 27, 2003 (Certificate of Mailing dated June 24, 2003).

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

The above-identified application was filed on October 1, 2002, without an oath or declaration. Accordingly, the Office mailed a Notice to File Missing Parts of Nonprovisional Application on November 18, 2002, requiring an oath or declaration, together with the surcharge for late filing of the oath or declaration. This Notice set a two month period for reply.

In response, on February 24, 2003, applicant supplied a copy of a decision on petition in parent application no. 08/740,727. That decision granted applicant's 37 CFR 1.183 petition to waive the requirements of 37 CFR 1.67 and 1.63 that joint inventor Seiber sign a supplemental declaration. However, the decision did not accord Rule 47 status in the parent application. Accordingly, applicant was not able to supply a copy of that decision to accord Rule 47 status in the instant application.[1] A decision refusing to accord Rule 47 status was mailed on May 21, 2003.

---

[1] See MPEP 201.06© at 200-38, 200-39.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On renewed petition, applicant has supplied a copy of the his petition and accompanying evidence filed in parent application no. 08/740,727. The petition set forth the steps taken to locate inventor Russ Seiber. In addition, applicant submitted the $130 petition fee. The declaration, executed by inventors Sydney, Madenjian, and Belovi, but with the signature block for Seiber left blank, was previously filed on February 24, 2003.

Accordingly, the above-identified application is hereby <u>accorded Rule 47(a) status</u>.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing legal representative at the last known address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 3700, Group Art Unit 3762, for docketing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

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RUSS SEIBER
23 NAPLES RD
BROOKUNE MA 02146

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JUL 29 2003

OFFICE OF PETITIONS

In re Application of
Gregory T. Sydney, Russ Seiber,
Arthur R. Madenjian, Annette Belovi
Application No. 10/263,377
Filed: October 1, 2002
Title: SELECTIVE COATING OF A BALLOON CATHETER WITH LUBRICIOUS MATERIAL FOR STENT DEPLOYMENT

LETTER

Dear Mr. Seiber:

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

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

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

William E. Anderson II
Vidas, Arrett & Steinkraus
6109 Blue Circle Drive, Suite 2000
Minnetonka, MN 55343-9185

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RUSS SEIBER
23 NAPLES RD
BROOKUNE MA 02146

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In re Application of
Gregory T. Sydney, Russ Seiber,
Arthur R. Madenjian, Annette Belovi
Application No. 10/263,377
Filed: October 1, 2002
Title: SELECTIVE COATING OF A BALLOON CATHETER WITH LUBRICIOUS MATERIAL FOR STENT DEPLOYMENT

LETTER

Dear Mr. Seiber:

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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William E. Anderson II
Vidas, Arrett & Steinkraus
6109 Blue Circle Drive, Suite 2000
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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 29, 2008

TO SPE OF : ART UNIT ~~2610~~ 2465

SUBJECT : Request for Certificate of Correction for Appl. No 10/263394patent no7283476

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: _____

2465

SPE **Art Unit**

PTOL-308 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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MOFO SF
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San Francisco, CA 94105

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OFFICE OF PETITIONS

In re Application of

Anthony Joseph Aiello
Application No. 10/263,403
Filed: October 2, 2002
Attorney Docket No. STL 3137

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 24, 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. Yim on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence 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 is no outstanding Office action at this time.

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Anthony Joseph Aiello**
521 Encino Drive
Aptos, CA 95003

cc: **Stephen C. Durant**
Novak Druce & Quigg LLP
Spear Street Tower-35th Floor
One Market Plaza
San Francisco, CA 94105

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/263,403	10/02/2002	Anthony Joseph Aiello	STL 3137

CONFIRMATION NO. 4967

OC000000025192837

50269
SEAGATE TECHNOLOGY c/o MOFO SF
425 MARKET ST.
SAN FRANCISCO, CA 94105

Date Mailed: 08/03/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/24/2007.

- 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.

Jessi Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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Date :02/28/07

Patent No. : 6962527 B2
Ser. No. : 10/263,428
Inventor(s) : BABA, KENJI
Issued : 11/08/05
Title : **RECORDING MEDIUM STORING GAME PROGRESS CONTROL PROGRAM, GAME PROGRESS CONTROL PROGRAM, GAME PROGRESS CONTROL METHOD, AND VIDEO GAME DEVICE**
Docket No. : F-7569

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

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

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

By fax: (703) 872-9306
ATTN: Office of Petitions

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

Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK NY 10168

LMN

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OFFICE OF PETITIONS

In re Application of
Mills, Andersson, Worsham, Nootbaar,
Rosky & Behrin
Application No. 10/263,461
Filed: October 2, 2002
Attorney Docket No. 83475.927
For: METHOD FOR FREEZING THE STATES OF A RECEIVER DURING SILENT LINE STATE OPERATION OF A NETWORK DEVICE

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

This is in response to the petition under 37 CFR 1.47(a), filed May 5, 2003 (certificate of mailing date April 28, 2003).

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

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on October 2, 2002 without an executed oath or declaration. Accordingly, on November 5, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, application filing fees, and a surcharge for their late filing.

In response, on May 5, 2003 (certificate of mailing date April 28, 2003), a 4 month extension of time and required fee, a declaration executed by 1 of 6 joint inventors, the surcharge, application filing fees, the petition fee, and the instant petition were filed. The petition lists the last knonw address for each non-signing inventor. The petition is accompanied by a declaration by Attorney Obi I. Iloputaife. The declaration of Attorney Obi I. Iloputaife and accompanying exhibits establish that Inventors Andersson, Worsham, Nootbaar, Rosky, and Behrin were mailed the application papers, including the specification, claims and drawings, but the inventors failed to respond to the request that they sign the declaration despite numerous attempts to obtain their signatures on the declaration.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration contains noninitialed, nondated alterations to Andrew Mills' information. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a). An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of the non-signing inventors is REQUIRED. See MPEP 409.03(a).

Fortunately, the inaccuracy relates to the signing inventor. Thus, pursuant to 37 CFR 1.67(a)(2), Mr. Mills can correct his information on a supplemental declaration identifying the entire inventive entity but signed only by him.

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

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

THE HECKER LAW GROUP
1925 CENTURY PARK EAST
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OFFICE OF PETITIONS

In re Application of
Mills, Andersson, Worsham, Nootbaar,
Rosky & Behrin
Application No. 10/263,461
Filed: October 2, 2002
Attorney Docket No. 83475.927
For: METHOD FOR FREEZING THE STATES OF A RECEIVER DURING SILENT LINE STATE OPERATION OF A NETWORK DEVICE

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

This is in response to the reconsideration petition under 37 CFR 1.47(a), filed June 23, 2003 (certificate of mailing date June 18, 2003).

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

Petitioner has shown that non-signing inventors Andersson, Worsham, Nootbaar, Rosky, and Behrin have constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Attorney Obi I. Iloputaife and accompanying exhibits establish that Inventors Andersson, Worsham, Nootbaar, Rosky, and Behrin were mailed the application papers, including the specification, claims and drawings, but the inventors failed to respond to the request that they sign the declaration despite numerous attempts to obtain their signatures on the declaration. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center 2600 for examination in due course.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

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MAY 30 2003

OFFICE OF PETITIONS

THE HECKER LAW GROUP
1925 CENTURY PARK EAST
SUITE 2300
LOS ANGELES CA 90067

In re Application of
Mills, Andersson, Worsham, Nootbaar,
Rosky & Behrin
Application No. 10/263,464
Filed: October 2, 2002
Attorney Docket No. 83475.928
For: METHOD FOR INITIALIZING A LINK SUSPEND DEVICE FOR OPTIMUM RECEIVE RECOVERY

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

This is in response to the petition under 37 CFR 1.47(a), filed May 5, 2003 (certificate of mailing date April 28, 2003).

The petition under 37 CFR 1.47(a) is granted.

Petitioner has shown that the non-signing inventors, Andersson, Worsham, Nootbaar, Rosky, and Behrin have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Attorney Obi I. Iloputaife and accompanying exhibits establish that the inventors were mailed the application papers, including the specification, claims and drawings, but the inventors failed to respond to the request that they sign the declaration despite numerous attempts to obtain their signatures on the declaration. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center 2600 for examination in due course.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WWW.USPTO.GOV

RALPH ANDERSSON
11701 THOMAS RANCH CIRCLE
NEVADA CITY CA 95959

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MAY 30 2003

OFFICE OF PETITIONS

In re Application of
Mills, Andersson, Worsham, Nootbaar,
Rosky & Behrin
Application No. 10/263,464
Filed: October 2, 2002
Attorney Docket No. 83475.928
For: METHOD FOR INITIALIZING A LINK SUSPEND DEVICE FOR OPTIMUM RECEIVE RECOVERY

LETTER

Dear Mr. Andersson:

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: THE HECKER LAW GROUP
1925 CENTURY PARK EAST
SUITE 2300
LOS ANGELES CA 90067

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

MICHAEL BEHRIN
11593 FOREST VIEW DRIVE
NEVADA CITY CA 95959

COPY MAILED
MAY 30 2003
OFFICE OF PETITIONS

In re Application of
Mills, Andersson, Worsham, Nootbaar,
Rosky & Behrin
Application No. 10/263,464
Filed: October 2, 2002
Attorney Docket No. 83475.928
For: METHOD FOR INITIALIZING A LINK SUSPEND DEVICE FOR OPTIMUM RECEIVE RECOVERY

LETTER

Dear Mr. Behrin:

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: THE HECKER LAW GROUP
1925 CENTURY PARK EAST
SUITE 2300
LOS ANGELES CA 90067

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

MICHAEL NOOTBAAR
10706 JAMES LANE
NEVADA CITY CA 95959

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MAY 3 0 2003

OFFICE OF PETITIONS

In re Application of
Mills, Andersson, Worsham, Nootbaar,
Rosky & Behrin
Application No. 10/263,464
Filed: October 2, 2002
Attorney Docket No. 83475.928
For: METHOD FOR INITIALIZING A LINK SUSPEND DEVICE FOR OPTIMUM RECEIVE RECOVERY

LETTER

Dear Mr. Nootbaar:

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: THE HECKER LAW GROUP
1925 CENTURY PARK EAST
SUITE 2300
LOS ANGELES CA 90067

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

DAVID ROSKY
11937 INCLINE SHAFT ROAD
NEVADA CITY CA 95959

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MAY 3 0 2003

OFFICE OF PETITIONS

In re Application of
Mills, Andersson, Worsham, Nootbaar,
Rosky & Behrin
Application No. 10/263,464
Filed: October 2, 2002
Attorney Docket No. 83475.928
For: METHOD FOR INITIALIZING A LINK SUSPEND DEVICE FOR OPTIMUM RECEIVE RECOVERY

LETTER

Dear Mr. Rosky:

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: THE HECKER LAW GROUP
1925 CENTURY PARK EAST
SUITE 2300
LOS ANGELES CA 90067

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

ANTHONY WORSHAM
645 10th STREET
OAKMONT PA 15139

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MAY 30 2003
OFFICE OF PETITIONS

In re Application of
Mills, Andersson, Worsham, Nootbaar,
Rosky & Behrin
Application No. 10/263,464
Filed: October 2, 2002
Attorney Docket No. 83475.928
For: METHOD FOR INITIALIZING A LINK SUSPEND DEVICE FOR OPTIMUM RECEIVE RECOVERY

LETTER

Dear Mr. Worsham:

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: THE HECKER LAW GROUP
1925 CENTURY PARK EAST
SUITE 2300
LOS ANGELES CA 90067

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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HUSCH & EPPENBERGER, LLC
190 CARONDELET PLAZA
SUITE 600
ST. LOUIS, MO 63105-3441

COPY MAILED

NOV 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Gary L. Reed, et al. :
Application No. 10/263,498 :
Filed: October 2, 2002 :
Attorney Docket No. 32815 :

ON PETITION

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

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

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

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

The application matter is being referred to the Publication Division.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEAN E. McCONNELL ESQ.
BRINKS HOFER GILSON & LIONE
ONE INDIANA SQUARE, SUITE 2425
INDIANAPOLIS, IN 46204-2033

COPY MAILED

OCT 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Michael L. Gailey et al :
Application No. 10/263,501 : DECISION GRANTING PETITION
Filed: October 3, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 10022/198 :

This is a decision on the petition, filed September 27, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 17, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2614 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Dean E McConnell Esq
Brinks Hofer Gilson & Lione
One Indiana Square Suite 2425
Indianapolis IN 46204-2033

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DEC 14 2007

OFFICE OF PETITIONS

Patent No. 7,233,655	:	ON REQUEST FOR REVIEW OF
Issue Date: June 19, 2007	:	PATENT TERM ADJUSTMENT
Application No. 10/263,501	:	AND
Filed: October 3, 2002	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. 10022/198	:	CERTIFICATE OF CORRECTION

This is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT" filed July 3, 2007. Patentees dispute the reduction of one hundred five (105) days indicated in PAIR.

The request for review of the patent term adjustment is **DISMISSED to the extent indicated herein**.

Patentee is given TWO (2) MONTHS to respond to this decision. No extensions of time will be granted under § 1.136(a).

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 five **(5)** days.

Patentee is advised that § 1.705(d) provides the avenue before the Office for requesting reconsideration of the revised patent term adjustment indicated in the patent. See § 1.702-1.705. Moreover, pursuant to § 1.705(b), this section requires payment of:

(1) The fee set forth in § 1.18(e).

The instant paper was timely filed within two months of the issuance of the patent. However, neither the fee under

§ 1.18(e) nor a general authorization to charge any required fees, accompanied the request. The authorization accompanying the request for review of patent term adjustment does not provide for this fee, as it only authorizes fees required under § 1.16 and § 1.17. Accordingly, the request is dismissed for failure to comply with the requirement of paragraph (b)(1) to submit the fee under § 1.18(e).

Nonetheless, it is appropriate to advise patentees that the 105 day period of reduction is based on the filing of an IDS on March 7, 2007, a Petition for Refund on April 4, 2007, and a Letter to the File on June 6, 2007, the reduction was entered pursuant to 37 CFR 704(c)(10).

Moreover, as acknowledged by patentees, a period of reduction should have been entered for the filing of a Request for Continued Examination (RCE) and Information Disclosure Statement (IDS) on September 27, 2006. These papers were filed after the mailing of the Notice of Allowance and after the payment of the Issue Fee. The IDS did not include a 1.704(d) statement. Accordingly, a period of reduction of 114 days is being entered for the period beginning on the day these papers were filed, September 27, 2006, and ending on the date of mailing of the Notice of Allowance mailed in response, January 18, 2007.

In view thereof, the patent should have issued with a revised patent term adjustment of five (5) days.

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: (571) 273-8300
ATTN: Office of Petitions

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

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 five **(5)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,233,655 B2

DATED : **June 19, 2007**

INVENTOR(S) : Gailey et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 119 days

Delete the phrase "by 119 days" and insert – by 5 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Dean E McConnell Esq
Brinks Hofer Gilson & Lione
One Indiana Square Suite 2425
Indianapolis IN 46204-2033

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SEP 30 2008

OFFICE OF PETITIONS

Patent No. 7,233,655	:	ON REQUEST FOR REVIEW OF
Issue Date: June 19, 2007	:	PATENT TERM ADJUSTMENT
Application No. 10/263,501	:	AND
Filed: October 3, 2002	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. 10022/198	:	CERTIFICATE OF CORRECTION

This is in response to the "SECOND REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT" filed December 31, 2007. Patentee requests reconsideration of the decision mailed December 14, 2007, correcting the patent term adjustment indicated on the patent to five (5) days. Patentee requests correction of the patent term adjustment to zero (0) days.

The request for correction of the patent term adjustment is **DISMISSED**.

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

On July 3, 2007, patentee filed a request for review of the patent term adjustment without payment of the fee set forth in 37 CFR 1.18(e). By decision mailed December 14, 2007, the request for reconsideration was dismissed to the extent that its consideration required payment of the fee set forth under 37 CFR 1.18(e). However, no fee was required to disclose that the patent had issued with too many days of patent term adjustment. As disclosed by patentee, a period of reduction was entered for the filing of a Request for Continued Examination (RCE) and Information Disclosure Statement (IDS) on September 27, 2006. Pursuant to 37 CFR 1.704(c)(10), the period of reduction entered was 114 days, counting the number of days beginning on the day the RCE and IDS were filed, September 27, 2006, and ending on the date of mailing of the Notice of Allowance mailed in

response, January 18, 2007. Given the entry of a 114 day reduction, it was concluded that the patent should have issued with a revised patent term adjustment of five (5) days.

On instant request for reconsideration, patentee disputes the period of reduction of 114 days on the basis that the IDS filed on September 27, 2007, was filed on the same day as the RCE. Patentee further asserts that an IDS filed on November 14, 2007 should have caused applicant delay of forty-eight (48) days. In addition, patentee states that applicant filed an Issue Fee payment on July 17, 2006 and subsequently filed a RCE seventy-two (72) later, on September 27, 2006. Accordingly, patentee states their belief that the correct amount of applicant's delay from July 17, 2006 until November 14, 2007, should be one hundred twenty (120) days.

Patentee's calculation of the patent term adjustment is not entirely clear. Nonetheless, it is clear that entry of a period of reduction of 120 days for applicant delay for the period from "July 17, 2006 to November 14, 2007 (or November 14, 2006)" is incorrect.

The rule relevant to the applicant delays referenced by patentee is 37 CFR 1.704(c)(10) which provides that:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
>
> (ii) Four months;

37 CFR 1.704(c)(8) is not relevant to such a paper filed after the mailing of the notice of allowance. Such a paper is not a supplemental response.

In this instance, a Notice of Allowance was mailed on June 28, 2006. The response to the Notice of Allowance was payment of the Issue Fee on July 17, 2006. All other papers filed after

the mailing of the Notice of Allowance until a mailing of a response to those papers constitutes a failure to engage within the meaning of 37 CFR 1.704(c)(10). The papers include the IDS and RCE filed on September 27, 2006, and the IDSs filed October 31, 2006 and November 14, 2006. In response to those papers, another Notice of Allowance was mailed on January 18, 2007. On prior decision, considering periods of overlap, the Office properly concluded that the period of reduction totalled 114 days, counting the number of days beginning on September 27, 2006 and ending on January 18, 2007. (The periods beginning on October 31 and November 14 and ending on January 18, 2007 totally overlap with this period, and thus, no additional period is entered for applicant delay under 37 CFR 1.704(c)(10) for this failure to engage.)

In view thereof, the decision that the patent should have issued with a revised patent term adjustment of five (5) days is affirmed.

No fee is required on request for reconsideration of decision mailed December 14, 2007.

It is noted that Office records reveal that no certificate of correction to correct the patent term adjustment was ever issued in this patent.

Pursuant to the decision of December 14, 2007, 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 five **(5)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,233,655 B2

DATED : **June 19, 2007** **DRAFT**

INVENTOR(S) : Gailey et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 119 days

Delete the phrase "by 119 days" and insert – by 5 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 Galleria Parkway, S.E., Suite 1500
Atlanta, GA 30339-5994

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MAR 1 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Patrick Duvaut *et al.*	:	
Application No. 10/263,506	:	DECISION ON PETITION
Filed: October 04, 2002	:	
Attorney Docket No. 60706-1490	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 16 May 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 26 October 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 27 January 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 that *prima facie* places the application in condition for allowance, (2) the petition fee of $1,500.00, and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Allen C. Ho at (571) 272-6052.

This application is being referred to Technology Center AU 2611 for appropriate action by the Examiner in the normal course of business on the reply received

David Bucci
Petitions Examiner
Office of Petitions

Cc:
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 Galleria Parkway, S.E., Suite 1750
Atlanta, GA 30339

UNITED STATES PATENT AND TRADEMARK OFFICE

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BRINKS HOFER GILSON & LIONE
ONE INDIANA SQUARE, SUITE 1600
INDIANAPOLIS, IN 46204

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FEB 06 2006

OFFICE OF PETITIONS

In re Application of	:	
Michael L. Gailey et al	:	
Application No. 10/263,523	:	DECISION GRANTING PETITION
Filed: October 3, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 10022/196	:	

This is a decision on the petition, filed January 31, 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 January 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) 272-3218.

This matter is being referred to Technology Center AU 2645 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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RAYMOND A. JOAO, ESQ.
122 BELLEVUE PLACE
YONKERS NY 10703

In re Application of	:	
Raymond Joao	:	
Application No. 10/263,554	:	ON PETITION
Filed: October 3, 2002	:	
Attorney Docket No. RJ435	:	

This is a decision on the petition, filed September 18, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on August 16, 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 2612 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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Paper No.

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

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NOV 02 2006
OFFICE OF PETITIONS

In re Application of :
Tonnigs et al. : DECISION ON PETITION
Application No. 10/263,562 :
Filed: October 4, 2002 :
Attorney Docket No. 2491-30 :

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181" filed July 27, 2006.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed August 1, 2005. The Office action set a three-month shortened statutory period, with extensions of time obtainable under § 1.136(a). No reply considered received and no extension considered obtained, the above-identified application became abandoned on November 2, 2005. The instant petition precedes the mailing of a courtesy Notice of Abandonment.

Applicants assert that the reply was timely filed on December 1, 2005 with a Request for a one-month extension of time. In support thereof, applicants submit a copy of the postcard. The petition also includes a copy of the reply.

A postcard receipt, which itemizes and properly identifies the items, which are being filed, serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioner's postcard receipt reveals that: 1) it was date stamped as received in the USPTO on December 1, 2005; 2) it specifically identifies the items being filed, including a "One

month Extension of Time - 2 pgs w/check $120" and "Reply to Office Action (8-1-05) - 7pgs" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. The evidence shows that a response to the non-final Office action should be considered timely filed on December 1, 2005.

It is noted that the payment for the one-month extension of time was processed as received on December 1, 2005.

Accordingly, the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 3721 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for consideration by the examiner of the response re-supplied on petition filed July 27, 2006.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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FULWIDER PATTON LEE & UTECHT, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES CA 90045

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JUL 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Daniel L. Holguin et al	:	
Application No. 10/263,564	:	DECISION ON PETITION
Filed: October 2, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. AVERY-65660	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 18, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 10/089,807, filed April 3, 2002, set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

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

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

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

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both

> applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement for Application No. 10/089,807, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

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

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

By hand: Customer Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

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

Karen Creasy

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

---

[1] *Note* 37 CFR 1.121

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TENTH FLOOR
LOS ANGELES CA 90045

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OCT 1 4 2005

OFFICE OF PETITIONS

In re Application of	:
Daniel L. Holguin et al	:
Application No. 10/263,564	: DECISION ON PETITION
Filed: October 2, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. AVERY-65660	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed July 20, 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, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1743 for appropriate action on the amendment filed July 20, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Karen Creasy

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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HAMRE SCHUMANN MUELLER & LARSON PC
P O BOX 2902-0902
MINNEAPOLIS, MN 55402

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APR 0 5 2006

OFFICE OF PETITIONS

In re Application of	:
Naoyasu Miyagawa et al	:
Application No. 10/263,603	: DECISION GRANTING PETITION
Filed: October 2, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 10873.1060US01	:

This is a decision on the petition, filed April 4, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 20, 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 2627 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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Paper No. 5

Blakely Sokoloff Taylor & Zafman LLP
12400 Wilshire Blvd.
Seventh Floor
Los Angeles, CA 90025

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AUG 1 8 2003

OFFICE OF PETITIONS

In re Application of
Andrew K. Hearley et al.
Application No. 10/263,618
Filed: October 2, 2002
Attorney Docket No. 6049P006

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

This is a decision on the petition, filed July 14, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is GRANTED.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on March 14, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

Any inquiries concerning this decision may be directed to Latrice Bond at (703) 308-6911.

This application is being forwarded to Technology Center Art Unit 1742 for examination in due course.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Marianne E. Morgan for
Frances Hicks
Lead Petitions Examiner

ATTACHMENT: Notice Regarding Rescission of Non-Publication Request and Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 26 2005

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

In re Application of	:
Francois Clavel et al	:
Serial No.: 10/263,655	: PETITION DECISION
Filed: October 4, 2002	:
Attorney Docket No.: 60240.000004	:

This is in response to the petition under 37 CFR 1.181, filed January 11, 2005, for withdrawal of abandonment of the above identified application.

A review of the file history shows that the examiner mailed an Office action to applicants on June 23, 2004, setting a one month shortened statutory period for reply and setting forth a restriction requirement. Applicants filed a two month extension of time and fee therefore and held an interview with the examiner on September 21, 2004, as reflected in the interview summary mailed September 23, 2004. For unknown reasons the file was reassigned to another examiner in November. On December 29, 2004, the new examiner mailed a Notice of Abandonment to applicants, based on failure to timely reply to the outstanding Office action even though this was only six days (which included a holiday and a weekend) after the statutory period for reply had expired. Applicants did timely reply on December 23, 2004, including an additional extension of time request and fee. The reply was not entered into IFW until January 5, 2005. In view of the above facts the Notice of Abandonment was mailed in error and is withdrawn and the application is restored to pending status with the mailing of this decision

The petition is **GRANTED**.

The application will be forwarded to the newly assigned examiner for further action.

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

Jasemine C. Chambers

Jasemine C. Chambers
Director, Technology Center 1600

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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.
10/263,660	10/04/2002	Carlos A. Casteleiro	017750-726	8117

7590 07/09/2007
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. BOX 1404
Alexandria, VA 22313-1404

EXAMINER
SOHN, SEUNG C

ART UNIT	PAPER NUMBER
2878	

MAIL DATE	DELIVERY MODE
07/09/2007	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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In re Patent No. 6,878,923	:	
Issue Date: April 12, 2005	:	DECISION ON PETITION
Serial No. 10/263,660	:	TO CORRECT
Filed: October 4, 2002	:	INVENTORSHIP UNDER
For: LOW PROFILE OPTICAL IMAGING	:	37 C.F.R. 1.324
SYSTEM HAVING A WIDE FIELD OF	:	
REGARD	:	

This is a decision on the petition, filed July 20, 2006 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to the Certificates of Corrections Branch for issuance of a certificate naming the actual inventors as follows:

Carlos A. Casteleiro, Altamonte Springs, FL.
David J. Falabella, Merritt Island, FL
Thomas E. Haberfelde, Clemont, FL

Georgia Y. Epps
Supervisory Patent Examiner
Art Unit 2873

Scott W. Cummings
BUCHANAN INGERSOLL & ROONEY PC
P.O. Box 1404
Alexandria, VA 22313-1404

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070703

DATE : July 3, 2007

TO SPE OF : ART UNIT 2878

SUBJECT : Request for Certificate of Correction on Patent No.: 6,878,923

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:

Please issie a Certificate of Correction base on the decision of the petition.

Georgia Y. Epps

SPE: Georgia Y. Epps **Art Unit** 2878

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 6878923
DATED: April 12, 2005
INVENTOR(S): Casteleiro et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

The correct name inventor as

Carlos A. Casteleiro, Altamonte Springs, FL
David J. Falabella, Merritt Island, FL
Thomas E. Haberfelde, Clemont, Fl

Georgia Y Epps
Supervisory Patent Examiner
Technology Center 2800

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Paper No.

Thomas L. Irving
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I Street, N.W.
Washington, DC 20005-3315

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FEB 22 2005

OFFICE OF PETITIONS

In re Application Vincent De LaForcade Application No. 10/263,702 Filed: October 4, 2002 Atty Docket No. 05725.1118-00	DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed January 11, 2005. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred nineteen (119) days to one hundred thirty-seven (137) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is one hundred thirty-seven **(137)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed. However, no "New Determination of Patent Term Adjustment" will be mailed.

On October 19, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 119 days. The period of adjustment of 167 days for Office delay was reduced by 48 days for applicant delay. On January 11, 2005, applicant timely[1] submitted an application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is 137 days. Applicant disputes the reduction of 48 days attributed to their delay in responding to the Notice to File Missing Parts of Application mailed November 8, 2002. Applicant states that their response was received in the Office on March 10, 2003, and thus, the delay should have led to a reduction of 30 days, not 48 days.

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[1] PALM records indicate that the Issue Fee was also received in the Office on January 11, 2005.

The record supports a conclusion that the patent issuing from the application is not subject to a terminal disclaimer.

Applicant is correct. Their response to the Notice to File Missing Parts of Application mailed November 8, 2002, is of record in the application with a date of receipt by the Office of March 10, 2003. Furthermore, the response included a complete reply to the Notice. Thus, the Office should not have assessed applicant a delay of 48 days. However, the response was filed outside of the three-month period under 37 CFR 1.704(b), three months and 30 days later. Thus, applicant failed to engage in reasonable efforts to conclude prosecution of the application by delaying in replying to the Notice to File Missing Parts of Application, but only by 30 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is three hundred thirty-seven (137) days.

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

The Office will forward the file to the Office of Patent Publication so that a patent can be issued.

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

Kery A Fries
for

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

Enclosure: Copy of Revised PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

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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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AUG 1 5 2003

OFFICE OF PETITIONS

In re Application of
Hagerman, et al.
Application No. 10/263,779
Filed: October 4, 2002
Attorney Docket No. 2343-155-27
For: RIGID COMPOSITE BUILDING MATERIALS AND ASSEMBLIES UTILIZING POROUS AND NON-POROUS RIGID FOAMED CORE MATERIALS

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

This is in response to the petition under 37 CFR 1.47(a), filed June 5, 2003.

The petition is granted.

Petitioners have shown that the non-signing inventors Hagerman and Derbort have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration/statement of facts of Charles T. Rivenburgh, an employee of a party in interest, establishes that each inventor was mailed the application papers, including the specification, claims and drawings, but each orally refused to sign the declaration based on inventorship disputes. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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JOSEPH W. HAGERMAN
102D LUMMUS STREET
STARKVILLE MS 39759

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AUG 1 5 2003

OFFICE OF PETITIONS

In re Application of
Hagerman, et al.
Application No. 10/263,779
Filed: October 4, 2002
Attorney Docket No. 2343-155-27
For: RIGID COMPOSITE BUILDING MATERIALS AND ASSEMBLIES UTILIZING POROUS AND NON-POROUS RIGID FOAMED CORE MATERIALS

LETTER

Dear Mr. Hagerman:

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: Supervisor, Patent Prosecution Services
PIPER RUDNICK LLP
1200 Nineteenth Street, N.W.
Washington DC 20036-2412

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAMES DERBORT
4095 LAWSON RIDGE DRIVE
APT. 511
MADISON AL 35757

COPY MAILED

AUG 1 5 2003

OFFICE OF PETITIONS

In re Application of
Hagerman, et al.
Application No. 10/263,779
Filed: October 4, 2002
Attorney Docket No. 2343-155-27
For: RIGID COMPOSITE BUILDING MATERIALS AND ASSEMBLIES UTILIZING POROUS AND NON-POROUS RIGID FOAMED CORE MATERIALS

LETTER

Dear Mr. Derbort:

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: Supervisor, Patent Prosecution Services
PIPER RUDNICK LLP
1200 Nineteenth Street, N.W.
Washington DC 20036-2412

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Paper No. 9

NAVAL MEDICAL RESEARCH CENTER
ATTN: (CODE 00L)
503 ROBERT GRANT AVENUE
SILVER SPRING, MD 20910-7500

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APR 14 2004
OFFICE OF PETITIONS

In re Application of :
Lekstrom-Himes, et al. :
Application No. 10/263,791 : ON PETITION
Filed: October 4, 2002 :
Attorney Docket No. NC 84,164 :

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

The petition is **GRANTED**.

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 26, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 27, 2003. A Notice of Abandonment was mailed on February 5, 2004.

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

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

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

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NAVAL MEDICAL RESEARCH CENTER
ATTN: (CODE 00L)
503 ROBERT GRANT AVENUE
SILVER SPRING, MD 20910-7500

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APR 2 0 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Julie A. Lekstrom-Himes, et. al.	:	
Application No. 10/263,791	:	
Filed: October 4, 2002	:	
Attorney Docket No. NC 84,164	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 20, 2006, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures mailed September 10, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a replacement sequence listing; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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TAYLOR & AUST, P.C.
P.O. BOX 560
142. S MAIN STREET
AVILLA IN 46710

MAILED

MAR 24 2009

OFFICE OF PETITIONS

In re Application of	:	
Daniel A. SHOCH et al.	:	
Application No. 10/263,866	:	DECISION ON PETITION
Filed: October 03, 2002	:	
Attorney Docket No. **M-241**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 17, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 24, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 25, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of July 24, 2007 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3654 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 23, 2008

TO SPE OF : ART UNIT 2635

SUBJECT : Request for Certificate of Correction for Appl. No 10/263873 patent no7009526

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 certificate of correction. /NN/ 6/9/09

/BZ/

SPE

2612

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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AGILENT TECHNOLOGIES, INC.
LEGAL DEPARTMENT, DL429
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 7599
LOVELAND CO 80537-0599

COPY MAILED

MAR 12 2008

OFFICE OF PETITIONS

In re Application of
William Grant Grovenburg
Application No. 10/263,903
Filed: October 4, 2002
Attorney Docket No.: **PD10020504-1**

ON PETITION

This is a decision on the petition filed February 25, 2008 to withdraw the holding of abandonment for the above-identified application which is being treated under 37 CFR 1.181.

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

The application was held abandoned on July 3, 2007, for failure to timely submit a timely response to the non-Final Office Action mailed April 2, 2007, which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed January 11, 2008.

Petitioner asserts that a response was filed July 2, 2007. In support, petitioner has submitted, *inter alia*, a copy of the response in the form of an amendment with a certificate of mail date of July 2, 2007 and a post card receipt date stamped July 6, 2007 by the USPTO.

The evidence submitted corroborates a timely response to the non-Final Office Action. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee Is due and none has been charged.

This matter will be referred to Technology Center 2616 for appropriate action on the amendment filed July 6, 2007 (certificate of mail date July 2, 2007), a copy of which was submitted upon petition.

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
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 17

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

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SEP 0 3 2004

OFFICE OF PETITIONS

In re Application of Kyasuke Yoshimoto, et al. Application No. 10/263,905 Filed: October 4, 2002 Attorney Docket No. 1190-0558P	: : : :	ON PETITION

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

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 August 10, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 2653 for further processing of the request for continued examination under 37 CFR 1.114 filed September 2, 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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OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:	
Kyosuke Yoshimoto et al	:	
Application No. 10/263,905	:	ON PETITION
Filed: October 4, 2002	:	
Attorney Docket No. 1190-0558P	:	

This is a decision on the petition, filed March 1, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of petitions, the file will be forwarded to Technology Center AU 2653 to 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).

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6788262	2004-09-07	10263943	2002-10-03	83838

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/J. Eric Anderson/	Date (YYYY-MM-DD)	2008-10-15
Name	J. Eric Anderson	Registration Number	58706

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

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www.uspto.gov

In re Patent No. 6788262
Issue Date: September 7,2004
Application No. 10263943
Filed: October 3,2002
Attorney Docket No. 83838

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

This is a decision on the electronic petition, filed October 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 October 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 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 : 3/22/05

TO SPE OF : ART UNIT 2829

SUBJECT : Request for Certificate of Correction on Patent No.: 6845664 B1

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

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

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

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch

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

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

Comments:

All changes are approved SPG 4-15-05

SPE

2812
Art Unit

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AUG 12 2004

EVELYN H. MCCONATHY, ESQUIRE
DILWORTH PAXSON LLP
3200 MELLON BANK CENTER - 1735 MARKET STREET
PHILADELPHIA PA 19103

In re Application of	:
Christopher J. Woolverton	:
Serial No.: 10/263,987	: STATUS LETTER
Filed: October 3, 2002	:
Attorney Docket No.: 23747.73044	:

This is in response to applicants' attorneys' request, filed May 7, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal (only a statement), as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.

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

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

KENSEY NASH CORPORATION
55 E. UWCHLAN AVENUE
EXTON, PA 19341

#6

In re Application of	:	
Mark Eberhart	:	DECISION ON PETITION
Serial No.: 10/264,001	:	
Filed: November 3, 2002	:	
For: Crimp and cut tool for sealing and	:	
Unsealing guide wires and tubular instruments:		

This is in response to applicants' petition filed December 23, 2002 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

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

John E. Kittle
Director,
Technology Center 3700/2900

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 13

SHAPIRO COHEN
PO BOX 3440
STATION D
OTTAWA ON K1P6P-1 CA CANADA

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MAY 1 0 2004

OFFICE OF PETITIONS

In re reissue Application of	:	
Fielder, et al.	:	
Application No. 10/264,013	:	ON PETITION
Filed: October 4, 2002	:	
Attorney Docket No. 0243P59US02	:	

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

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

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed August 15, 2003. This Office action set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on November 16, 2003. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner paid the petition fee, filed a reply in the form of an amendment, and made a proper statement of unintentional delay

The petition fee of $1,330 has been charged to Deposit Account No. 16-0600, as authorized.

The application file is being forwarded to Group Art Unit 2676 for consideration of the amendment filed April 1, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BORDEN LADNER GERVAIS LLP
1100-100 QUEEN ST
OTTAWA ON K1P 1J9 CA
CANADA

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JUL 26 2006
OFFICE OF PETITIONS

In re Application of Fielder et al. :
Reissue Application No. 10/264,013 :
Reissue Filing Date: October 4, 2002 :
Reissue of Patent No. 5,694,143 :
Original Issue Date: December 2, 1997 :
Attorney Docket No. PAT 2447REA-2 US :

Decision on Petition

This is a decision on the petition, filed March 1, 2006, under 37 CFR §1.183 requesting waiver of signature requirement of non-signing inventor. The petition will be treated as a request to waive 37 CFR §§ § 1.42, 1.67, and 1.63 where they require that a supplemental declaration be executed by all named inventors.

The petition is **dismissed**.

Petitioner makes well-reasoned and persuasive arguments. However, problems exist with the declaration filed November 23, 2005.

The declaration filed November 23, 2005, lists the name of the deceased inventor but does not list the inventor's citizenship or *last known* addresses. Petitioner should file an addendum to the declaration with this information included. The addendum only needs to be signed by the assignee.

In addition to the information above, the addendum should include:

(1) The identity of the individual who signed in the deceased inventor's signature block on the declaration,
(2) A discussion of the individual's authority to sign on behalf of the assignee,[1] and
(3) The title or position of the individual.

[1] When an assignee signs a declaration on behalf of an inventor, the declaration must be signed by someone with apparent authority to sign on behalf of the assignee or the petition must be accompanied by a statement that the person signing the declaration is authorized to act on behalf of the assignee. Individuals with apparent authority include officers of a corporation such as a President, Vice-President, Secretary, or Treasurer. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation.

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 1.183."

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 the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of Fielder et al. :
Reissue Application No. 10/264,013 :
Reissue Filing Date: October 4, 2002 :
Reissue of Patent No. 5,694,143 :
Original Issue Date: December 2, 1997 :
Attorney Docket No. PAT 2447REA-2 US :

Decision on Petition

This is a decision on the petition, filed March 1, 2006, under 37 CFR §1.183 requesting waiver of signature requirement of a non-signing inventor. The petition will be treated as a request to waive 37 CFR §§ § 1.42, 1.67, and 1.63 where they require that a supplemental declaration be executed by all named inventors.

Petitioner has shown (1) that this is an extraordinary situation where (2) justice requires waiver of the rule. *In re Sivertz*, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985).

Dennis A. Fielder , a joint inventor, is deceased. Petitioner has shown that no proprietary interest in the instant reissue application remains in the late Dennis A. Fielder, or his legal representative, as per the recorded chain of assignments executed by Mr. Fielder prior to his passing away. Therefore, an authorized officer of the assignee may intervene and prosecute the application. Petitioner has filed a supplemental declaration listing Mr. Fielder's full information and an addendum signed by an office bearer of the assignee of record, 3612821 Canada Inc..

The petition is **granted**.

After the mailing of this decision, the application will be returned to Technology Center 2628.

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

Shirene Willis Brantley

ShireneWillis Brantley
Senior Petitions Attorney
Office of Petitions

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Paper No. 10

AGOURON PHARMACEUTICALS, INC.
10350 NORTH TORREY PINES ROAD
LA JOLLA, CA 92037

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NOV 19 2003

OFFICE OF PETITIONS

In re Application of :
Stephen Evan Webber, et al. :
Application No. 10/264,018 :
Filed: October 2, 2002 :
Attorney Docket No. 0041-02-US :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 11, 2003, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 7, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 9, 2003.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail future correspondence solely to the address of record.

The application file is being forwarded to Technology Center 1600, Art Unit 1624 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

cc: Karl Neidert
Agouron Pharmaceuticals, Inc.,
A Pfizer Company
10777 Science Center Drive
San Diego, CA 92121

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

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

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SEP 20 2004

OFFICE OF PETITIONS

In re Application of
Nahed M. Mohsen, et al.
Application No. 10/264,030
Filed: October 3, 2002
Attorney Docket No. 02104.000020

ON PETITION

This is a decision on the petition, filed July 14, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 2, 2003, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed on April 7, 2004. In response, on July 14, 2004, the present petition was filed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of T. Gregory Peterson appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. However, if Mr. Peterson 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.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9220. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 1616 for consideration of the response filed July 14, 2004.

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

cc: T. GREGORY PETERSON
BRADLEY ARANT ROSE & WHITE, LLP
1819 FIFTH AVENUE NORTH
BIRMINGHAM, AL 35203

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John S. Beulick
Armstrong Teasdale LLP
Suite 2600
One Metropolitan Sq.
St. Louis, MO 63102

Mail Date: 07/15/2010

Applicant	: Byron Cris Bauer	: DECISION ON REQUEST FOR
Patent Number	: 7662135	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/264,032	: 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 **96** 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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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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FEB 11 2005

OFFICE OF PETITIONS

In re Patent No. 6,787,940 Jurgen Pullmann Issue Date: September 7, 2004 Application No. 10/264,070 Filed: October 3, 2002 Attorney Docket No. 4965-000141	DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT and NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the "PETITION TO REQUEST RECONSIDERATION OF PATENT TERM ADJUSTMENT CALCULATION PURSUANT TO 37 CFR 1.705," filed September 13, 2004. Patentee requests that the patent term adjustment indicated in the patent be corrected from seventy-one (71) to one hundred thirty-two (132) days, and that a new Issue Notification be prepared and issued in due course.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated in the patent is to be corrected by issuance of a Certificate of Correction showing a Patent Term Adjustment of one hundred thirty-two **(132)** days. However, no new Issue Notification will be prepared or issued.

On September 7, 2004, the above-identified application matured into U.S. Patent No. 6,787,940. The instant request for reconsideration filed September 13, 2004 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 71 days. Patentee states that the initial determination of patent term adjustment of 132 days should not have been reduced by 61 days for the submission of a "Miscellaneous Incoming Paper" after the Notice of Allowance, as the paper was a Comments on Statement of Reasons for Allowance. The record supports a conclusion that the patent is not subject to a terminal disclaimer.

Patentee's 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 61 days was based on the filing after allowance of a "Comments on Statement of Reasons for Allowance" filed July 9, 2004. Thus, it is concluded that the patent term adjustment should not have been reduced by 61 days.

In view thereof, the patent term adjustment indicated in the patent should be 132 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 THIRTY-TWO (132)** days.

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

for

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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Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein
5 Becker Farm Road
Roseland, NJ 07068

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OFFICE OF PETITIONS

In re Application of :
Madelaine Joy Fernandez :
Application No. 10/264,075 : DECISION ON PETITION
Filed: October 3, 2002 :
Attorney Docket No. P024471-01UT :

This is a decision on the petition under 37 CFR 1.137(b), filed October 13, 2005, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional petition fee is necessary.

The application became abandoned on June 2, 2005, for failure to file a timely and proper response to the final Office action mailed on March 1, 2005, which set a three (3) month shortened statutory period for reply. The present petition preceded the mailing of a Notice of Abandonment.

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

> (1) The reply required to the outstanding Office action or notice, unless previously filed. 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 § 114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. 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 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 set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

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

With the present petition, petitioner submitted an amendment in response to the final Office action; however, the examiner found that the amendment did not place the application in condition for allowance. An Advisory Action accompanies this decision.

In a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be:

(1) A Notice of Appeal and appeal fee;

(2) An amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise *prima facie* places the application in condition for allowance;

(3) The filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) under 37 CFR 1.114 for utility or plant applications filed on or after June 8, 1995; or

(4) The filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application).

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

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5 Becker Farm Road
Roseland, NJ 07068

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OFFICE OF PETITIONS

In re Application of :
Madelaine Joy Fernandez :
Application No. 10/264,075 : DECISION ON PETITION
Filed: October 3, 2002 :
Attorney Docket No. P024471-01UT :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed on March 21, 2006, and resubmitted on April 3, 2006, to revive the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on its merits. The Office apologizes for any inconvenience.

The application became abandoned on June 2, 2005, for failure to file a timely and proper response to the final Office action mailed on March 1, 2005, which set a three (3) month shortened statutory period for reply. The present petition preceded the mailing of a Notice of Abandonment. On October 13, 2005, petitioner submitted the original petition under 37 CFR 1.137(b) and an amendment in response to the final Office action. Upon reviewing the amendment and arguments[1] presented by petitioner, the examiner stated in an Advisory Action that the amendment did not place the application in condition for allowance. Accordingly, the petition was dismissed by the decision of February 7, 2006.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of a Notice of Appeal and paid the requisite fee. Accordingly, the petition is **granted. Petitioner must file an appeal brief within two months from the mailing date of this decision.**

This matter is being referred to Technology Center Art Unit 3644.

---

[1] Petitioner argued that the examiner improperly issued the final Office action because it raised new grounds of rejection. Furthermore, petitioner requested that the examiner withdraw the final Office action and issue a new Office action to allow petitioner to respond to the new grounds of rejection.

The examiner may withdraw the rejection of finally rejected claims if the examiner finds the applicant's request for reconsideration of the finality of the rejection persuasive. The finality of the Office action must be withdrawn while the application is still pending. The examiner cannot vacate the final rejection once the application is abandoned.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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TECHNOLOGY CENTER 3600

Carella, Byrne, Bain, Gilfillan, Cecchi,
Steward & Olstein
5 Becker Farm Road
Roseland, NJ 07068

In re Application of FERNANDEZ, Madelaine Joy Application No.: 10/264,075 Filed: October 3, 2002 For: COMPOSITION SUITABLE FOR AQUATIC HABITAT REPAIR, REPLACEMENT AND/OR ENHANCEMENT	: : : : : : :	DECISION ON PETITION REGARDING REQUEST TO WITHDRAW FINALITY UNDER 37 CFR 1.181

This is in response to appellant's petition under 37 CFR 1.181 filed August 14, 2006 requesting withdrawal of the finality of the Office action mailed March 1, 2005 as being premature.

The petition is **DISMISSED.**

A review of the record indicates that a request for continued examination (RCE) was filed May 10, 2004. A non-final Office action was mailed June 15, 2004. A response was filed December 20, 2004. A final Office action was mailed March 1, 2005. The application became abandoned on June 2, 2005, for failure to file a timely and proper response to the final Office action mailed on March 1, 2005, which set a three (3) month shortened statutory period for reply. Notice of abandonment was mailed September 19, 2005. Subsequently, appellant filed a petition under 37 CFR 1.137(b) to revive the application. The petition included an amendment under 37 CFR 1.116 to the final Office action of March 1, 2005. However, the amendment did not *prima facie* place the application in condition for allowance. Since a proper reply (i.e., (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114) was not included with the petition, the petition was dismissed on February 7, 2006. A renewed petition to revive was filed on March 21, 2006 and a supplemental renewed petition was filed on April 3, 2006. A Notice of Appeal and the appeal fee was included in the renewed petition of March 21, 2006. Accordingly, the petition was granted on July 28, 2006. The instant petition was filed August 14, 2006.

In the petition, appellant argues that the examiner raised a new ground of rejection in the Advisory Action. However, the Advisory action did not raise a new ground of rejection. In the Advisory action, the examiner responded to appellant's request for reconsideration by stating that appellant's arguments were not found persuasive. In response to appellant's dictionary submission of the terminology "sand" and the arguments regarding sand not being calcium carbonate, the examiner responded that mineral sands are not the only types of sands. Siliceous

rock and quartz are other known types of sand. Biogenic sands are a second category of sand (also known as organic, biological or carbonate sand) that are largely comprised of mineral calcites (calcium carbonate). As calcium carbonate is a known type of sand, appellant's arguments regarding sand only comprising silicon or quartz was not found persuasive. At no time did the examiner raise a new ground of rejection. The examiner merely expounded on her position that calcium carbonate is a type of sand, and that it would have been obvious to use the material of Holmes (i.e., calcium carbonate) with the structure of Coles.

Any comments or concerns related to this decision should be forwarded to Teri P. Luu at (571) 272-7045.

Donald T. Hajec, Director
Technology Center 3600
(571) 272-5150

DH/tl: 11/22/2006

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Roseland, NJ 07068

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JAN 12 2007

TECHNOLOGY CENTER 3600

In re Application of
Fernandez, Madelaine Joy
Application No.: 10/264,075
Filed: October 3, 2002
For: COMPOSITION SUITABLE FOR AQUATIC HABITAT REPAIR, REPLACEMENT AND/OR ENHANCEMENT

SUA SPONTE
RECISSION OF NOTICE OF ABANDONMENT

A review of the application reveals that a Decision granting the petition to revive the application filed under 37 CFR 1.137(b) was mailed to the applicant on July 28, 2006. The decision indicated that the appeal brief needed to be filed within two months from the mailing date of the decision. On December 29, 2006, the application was held abandoned for failure to file the appeal brief.

Although the Decision did not indicate that extensions of time may be granted under 37 CFR 1.136(a), MPEP 1205.01 sets forth:

> "When an application is revived after abandonment for failure on the part of the appellant to take appropriate action after final rejection, and the petition to revive was accompanied by a notice of appeal, appellant has 2 months, from the mailing date of the affirmative decision on the petition, in which to file the appeal brief. The time period for filing the appeal brief may be extended under 37 CFR 1.136."

As of December 29, 2006, appellant still had time in which to file for an extension of time under 37 CFR 1.136 and the required appeal brief.

In view of these facts, the abandonment of the application was clearly premature and is hereby rescinded. The application will revert to pending status, awaiting the filing of an Appeal Brief due September 28, 2006.

Inquires related to this decision may be directed to Teri Luu at (571) 272-7045

Donald T. Hajec, Director
Technology Center 3600
(571) 272-5150

DH/tl: 1/5/07

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

c/o Ya-Chiao Chang
BAKER & McKENZIE
29th Floor
805 Third Avenue
New York NY 10022

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DEC 19 2005

OFFICE OF PETITIONS

In re Application of
Wei-Chang Tsao
Application No. 10/264,089
Filed: October 1, 2002
Attorney Docket No.: 87157418-002003
Title: APPARATUS AND METHOD FOR MANUFACTURING MAGNETIC CORE WITH R-ANGLE USING A CUTTING DEVICE

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

This is a decision on the petition under 37 CFR §1.137(b)[1], filed November 11, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed February 8, 2005, which set a shortened statutory period to reply for one (1) month. On April 8, 2005, a one-month extension of time was received, along with a response. A notice of non-compliant amendment was mailed on April 19, 2005, which set forth a one-month period for response. No further extensions of time or responses were received. Accordingly, the above-identified application became abandoned on May 20, 2005.

With the petition, Petitioner has submitted the petition fee, a response to the Restriction Requirement, and the proper statement of unintentional delay. Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b).

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

---

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

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

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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AUG 1 2 2005

OFFICE OF PETITIONS

TOPE-MCKAY & ASSOCIATES
23852 Pacific Coast Highway #311
Malibu, CA 90265

In re Application of:
DAILY, Mike, et al.
Application No.: 10/264,091
Filed: October 02, 2002
Atty's Docket No.: HRL079

DECISION ON PETITION UNDER
37 CFR 1.137(b)

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 to the final Office action mailed September 28, 2004, which set a shortened statutory period for reply of three (3) months. A reply was filed on February 02, 2005 (accompanied by the fee for a one month extension of time and bearing a certificate of mailing dated January 28, 2005); however, that reply did not prima facie place this application in condition for allowance, as indicated by the Advisory Action mailed March 18, 2005. No further extensions of time under the provisions of 37 CFR 1.136(a) were obtained and a Notice Of Appeal was not filed. Accordingly, by operation of law, the above-identified application became abandoned at midnight on January 28, 2005.

The present petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the reply in the form of a Request For Continued Examination (RCE) and submission as required by 37 CFR 1.114; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply to the final Office action (in the form of the RCE and submission) is accepted as having been unintentionally delayed.

The petition asks "additionally" for consideration of the petition as a "Petition to Revive an Unavoidably Abandoned Application." In that the petition under 37 CFR 1.137(b) has been granted, this request is considered moot. It is noted that consideration of this additional petition on the merits would require payment by applicants of an additional $500 petition fee.

The application file is being referred to Technology Center AU 2676.

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 Dickson for
Brian Hearn
Petitions Examiner
Office Of Petitions

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Paper No. 9

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SEP 04 2003

OFFICE OF PETITIONS

Chief Patent Counsel
Smith & Nephew, Inc.
1450 Brooks Road
Memphis, TN 38116

In re Application of Martin, et al. Application No. 10/264,140 Filed: October 3, 2002 Atty. Dkt. No.: 0131-0768	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed June 18, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned January 8, 2003 for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice") mailed November 7, 2002. The Notice set a two (2) month shortened statutory period for reply. No petition for extension of time in accordance with 37 CFR 1.136(a) was timely filed. This decision precedes Notice of Abandonment.

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 $1,450.00 extension of time fee submitted June 18, 2003 was subsequent to the maximum period obtainable for reply, this fee is unnecessary. Petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

The associate power of attorney submitted herewith has not been entered into the record. Petitioner may not utilize a customer number to appoint an associate power of attorney. Petitioner is advised to resubmit submit the associate power of attorney by individually indicating by name and registration numbers the representatives sought to be granted an associate power of attorney.

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

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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Paper No. 4

GEORGIA EVANS
NIXON PEABODY LLP
CLINTON SQUARE, P.O. BOX 31051
ROCHESTER, NY 14603-1051

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JUL 1 6 2003

OFFICE OF PETITIONS

In re Application of
Richard Durst et al
Application No. 10/264,159
Filed: October 2, 2002
Attorney Docket No. 19603/2716

NOTICE

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center 1600.

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

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Paper No. 5

Jane Massey Licata
Kathleen A. Tyrrell
Licata & Tyrrell
66 E. Main Street
Marlton, NJ 08053

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DEC 1 2 2003

OFFICE OF PETITIONS

In re Application of	:	
Alan R. Bandy	:	
Application No. 10/264,180	:	ON PETITION
Filed: October 3, 2002	:	
Attorney Docket No. DRE-0092	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 5, 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.

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

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

Latrice Bond

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 15, 2008

TO SPE OF : ART UNIT ~~2616~~ 2465

SUBJECT : Request for Certificate of Correction for Appl. No 10/264192 patent no7203181

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: _____

SPE

2465
Art Unit

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AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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#5

MAY 14 2003

LAW OFFICE OF ERIC G. MASAMORI
6520 RIDGEWOOD DRIVE
CASTRO VALLEY CA 94552

In re Application of Pichit Suvanprakorn et al Serial No.: 10/264,205 Filed: October 3, 2002 Attorney Docket No.: 106.005.1	: PETITION TO MAKE SPECIAL

This is in response to applicants' petition filed April 25, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on prospective manufacture.

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

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 308-7922.

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

DO NOT SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-17-06

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/264212 Patent No.: 6956258

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

E. James

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Electronic IDS References filed Jan 7, 2003 and Feb 13, 2003 should be entered. IDS filed Jan 7, 2003 and Feb 13, 2003 have been initialed and [redacted]

NATHAN J. FLYNN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2828
Art Unit

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Law Offices of John D. Gugliotta, PE, Esq.
202 Delaware Building
137 South Main Street
Akron, OH 44308

In re application of
Steven Tsengas et al.
Application No. 10/264,223
Filed: October 3, 2002
For: CAT LITTER

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on October 3, 2002 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Tsengas indicating that he is at least 65 years of age.

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

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

SUMMARY: Petition to Make Special **GRANTED**.

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

KJD/vdb: 8/31/04

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Paper No.

RAGGIO & DINNIN, P.C.
2701 CAMBRIDGE COURT,
STE. 410
AUBURN HILLS MI 48326

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JUL 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Sailor Mohler	:	
Application No. 10/264,257	:	LETTER REGARDING
Filed: October 4, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. 1928-00007	:	
(SONO-001/01US	:	

This is in response to the "Letter Under MPEP 2733 Advising that Patent Term Adjustment is Longer Than Expected," filed May 20, 2008. Pursuant to their duty of candor and good faith to the Office, applicant discloses that the patent term adjustment indicated on the Notice of Allowance appears to be longer than expected.

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is four hundred forty **(440)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 21, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 531 days. Applicant discloses that the Patent Term Adjustment should be further reduced by an additional ninety-one (91) days under 37 C.F.R. §1.704(b) as a result of a three (3) month extension of time upon filing the Request for Continued Examination on November 30, 2007.

A review of the record confirms that in response to the Office action mailed May 31, 2007, applicant did not file an RCE until November 30, 2007, three months and 91 days later. As such, a period of reduction of 91 days should have been entered pursuant to 37 C.F.R. §1.704(b).

As such, the correct initial determination of the patent term adjustment at the time of the mailing of the notice of allowance is four hundred forty (440) days.

As this letter was submitted as an advisement to the Office of an error in Applicant's favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks Applicant for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Office of Data Management for issuance of 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 and the period is not consumed by the request for continued examination).

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Day : Tuesday
Date: 7/29/2008

PALM INTRANET

Time: 20:14:15

PTA Calculations for Application: 10/264257			
Application Filing Date:	10/04/2002	PTO Delay (PTO):	741
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	210
Post-Issue Petitions:	0	Total PTA (days):	440
PTO Delay Adjustment:	-91		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
70	07/29/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		91	
50	02/21/2008	MAIL NOTICE OF ALLOWANCE			
49	02/16/2008	ISSUE REVISION COMPLETED			
48	02/16/2008	DOCUMENT VERIFICATION			
47	02/16/2008	EXAMINER'S AMENDMENT COMMUNICATION			
46	02/16/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
45	02/16/2008	NOTICE OF ALLOWABILITY			
41	12/17/2007	CORRESPONDENCE ADDRESS CHANGE			
40	11/30/2007	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
39	11/30/2007	NEW OR ADDITIONAL DRAWING FILED			
38	12/06/2007	DATE FORWARDED TO EXAMINER			
37	11/30/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
36	12/06/2007	DATE FORWARDED TO EXAMINER			
35	11/30/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
34	12/06/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
33	11/30/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
32	11/30/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
31	05/31/2007	MAIL FINAL REJECTION (PTOL - 326)			
30	05/28/2007	FINAL REJECTION			
29	03/13/2007	DATE FORWARDED TO EXAMINER			
28	02/16/2007	RESPONSE AFTER NON-FINAL ACTION		90	26
		REQUEST FOR EXTENSION OF TIME - GRANTED			

27	02/16/2007				
26	08/18/2006	MAIL NON-FINAL REJECTION			
25	08/17/2006	NON-FINAL REJECTION			
21	06/19/2006	DATE FORWARDED TO EXAMINER			
20	06/14/2006	RESPONSE AFTER NON-FINAL ACTION		92	17
19	06/14/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
18	05/02/2006	CASE DOCKETED TO EXAMINER IN GAU			
17	12/14/2005	MAIL NON-FINAL REJECTION	741		-1
16	12/12/2005	NON-FINAL REJECTION			
15	06/22/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
14	06/22/2004	REFERENCE CAPTURE ON IDS			
13.7	06/22/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	06/22/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	03/24/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	10/04/2002	PRELIMINARY AMENDMENT			
10	04/03/2003	CASE DOCKETED TO EXAMINER IN GAU			
9	03/28/2003	APPLICATION DISPATCHED FROM OIPE			
8	03/20/2003	APPLICATION IS NOW COMPLETE			
7	02/27/2003	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM		28	3
6	02/27/2003	SMALL ENTITY STATEMENT (37 CFR 1.27)			
5	02/27/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	02/27/2003	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
3	10/30/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	10/15/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/04/2002	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

In re Application of	:	
Phillips, et al.	:	
Application No. 10/264,280	:	ON APPLICATION FOR
Filed: October 3, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. 02811-0271	:	
(42368/277492)	:	

This is in response to the COMMUNICATION REGARDING PATENT TERM ADJUSTMENT (PTA) INDICATED IN NOTICE OF ALLOWANCE, filed August 17, 2009. The petition will be treated under 37 CFR § 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is five hundred seventy-five (575) days[1], not two hundred thirty (230) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

[1] This calculation is based on a projected issuance date of December 17, 2009.

under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[2].

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

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

---

[2] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Electronic Patent Application Fee Transmittal

Application Number:	10264280
Filing Date:	03-Oct-2002
Title of Invention:	THERAPEUTICALLY USEFUL TRIETHYLENEGLYCOL CHOLESTERYL OLIGONUCLEOTIDES
First Named Inventor/Applicant Name:	Nigel C. Phillips
Filer:	Kathryn Harrison Wade/Fran Young
Attorney Docket Number:	02811-0271 (42368/277492)

Filed as Small Entity

Utility under 35 USC 111(a) Filing Fees

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:		Adjustment date: 11/18/2009 CKHLOK 08/18/2009 INTEFSW 00002519 10264280 01 FC:1463		-200.00 OP
Petition fee- 37 CFR 1.17(g) (Group II)	1463	1	200	200
Patent-Appeals-and-Interference:		11/18/2009 CKHLOK 00000007 10264280 01 FC:1455		200.00 OP
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				

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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

Mail Date: 04/21/2010

Applicant	: Nigel C. Phillips	: DECISION ON REQUEST FOR
Patent Number	: 7635686	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/264,280	: 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 **454** 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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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

Mail Date: 05/18/2010

Applicant : Nigel C. Phillips
Patent Number : 7635686
Issue Date : 12/22/2009
Application No : 10/264,280
Filed : 10/03/2002

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **566** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

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Paper No. 091304

DUANE MORRIS LLP
100 COLLEGE ROAD WEST, SUITE 100
PRINCETON, NJ 08540

OCT 1 2004

In re Application of:	:	
AMNON BROSH	:	
Serial No.: 10/264,292	:	DECISION ON REQUEST TO WITHDRAW
Filed: October 03, 2002	:	FROM RECORD
Attorney Docket No.: **N1014-00020**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 02, 2004.

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

The request meets all the above stated requirements. The request was signed by Paul A. Schwarz, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

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

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

Edward Westin

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

cc: PLEVY & HOWARD
600 NORTH EASTON ROAD
WILLOW GROVE, PA 19090

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SALT LAKE CITY, UT 84111

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OFFICE OF PETITIONS

In re Application of	:	
Richard S. Ginn, et al.	:	
Application No. 10/264,306	:	DECISION GRANTING PETITION
Filed: October 3, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 16497.8.1.1	:	

This is a decision on the petition under 37 CFR 1.313(c) (2), filed May 21, 2008 and supplemented on May 28, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 5, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3734 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

April M. Wise
Petitions Examiner
Office of Petitions

---

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

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OFFICE OF PETITIONS

Foley Hoag, LLP
Patent Group, World Trade Center West
155 Seaport Blvd.
Boston, MA 02110

In re Application of
Durham, et al.
Application No. 10/264,309
Filed: October 3, 2002
Attorney Docket No. POA-002.01

ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3) filed March 14, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional application set forth in an Application Data Sheet and amendment filed with instant petition. The petition will also be treated as a petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority of the prior-filed provisional applications set forth in the Application Data Sheet filed concurrently with the instant petition.

The petition under 37 CFR 1.78(a)(3) is **GRANTED**.

The petition under 37 CFR 1.78(a)(6) is also **GRANTED**.

TREATMENT 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 nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed application is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior filed application, found in the Application Data Sheet, 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 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.

TREATMENT UNDER 37 CFR 1.78(a)(6)

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

1. the reference required by 35 U.S.C. 119(e) and paragraph (a)(5)(i) of this section to the prior-filed provisional 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 paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional applications is submitted after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior filed provisional applications, found in the Application Data Sheet, 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. § 119(e). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 119(e) to the 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)(3) and 37 CFR 1.78(a)(6) should not be construed as meaning the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) and 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 nonprovisional application and provisional application, accompanies this decision on petition.

It is noted that the references required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) and 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5)(i) found in the amendment filed March 14, 2005 also include an incorporation by reference statement incorporating the entire disclosures of prior-filed applications. It is further noted that the subject application did not contain an incorporation by reference statement on filing in either the specification or application transmittal sheet. The incorporation by reference statement included in the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) and 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5)(i) is improper as it seeks to include new matter in the application after filing. See 35 U.S.C § 132. The amendment is, therefore, improper and will not be entered.

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571)272-3222.

This matter is being referred to Technology Center 1600, Art Unit 1647 for further processing, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C.§ § 120 and 119(e) to the prior-filed nonprovisional and provisional applications.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

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

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OFFICE OF PETITIONS

In re Application of
Girotto et al.
Application No. 10/264,314
Filed: October 2, 2002
Attorney Docket No. DEM1P014

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

This is a decision on the petition, filed January 10, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on September 26, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A

Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of May 20, 2004 was previously mailed out to the address of record.

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 solely to the address currently of record until such time as appropriate instructions are received to the contrary.

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

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-0482.

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

cc: LAW OFFICES OF KANG S. LIM
PMB 436
3494 CAMINO TASSAJARA ROAD
DANVILLE, CA 94506

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MAY 23 2005

BROWDY AND NEIMARK, P.L.L.C.
624 Ninth Street, N.W.
Washington DC 20001

In re Application of:
David Dix
Serial No.: 10/264,321
Filed: October 4, 2002
Attorney Docket No.: DIX1

: PETITION TO MAKE SPECIAL

This is in response to applicant's petition filed November 26, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on inventions which materially enhance the quality of the environment of mankind. No fee is required for this petition. The delay is responding to this petition is regretted, however, this petition was only recently brought to the attention of the deciding authority.

Applicant has not satisfied the provisions set forth in M.P.E.P. 708.02, V. Specifically, applicant has not satisfied this section of M.P.E.P. 708.02, V which requires that the quality of the environment of mankind be enhanced by contributing to the restoration or maintenance of basic life-sustaining natural elements, i.e., air, water, and soil. Since applicant's invention does not enhance the quality of the environment of mankind in this manner, the petition is **DENIED**.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission to the general Office facsimile number.

Marianne C. Seidel

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OCT 23 2006

OFFICE OF PETITIONS

In re Application of

OZAWA, et al.
Application No. 10/264,341
Filed: October 4, 2002
Attorney Docket No. 2144.0010000

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 16, 2006.

The request is **APPROVED**.

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

The request was signed by Linda E. Horner on behalf of herself. Linda E. Horner 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 Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Linda Horner
United States Patent & Trademark Office
600 Dulany Street
Alexandria, VA 22314

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LANIER FORD SHAVER & PAYNE
P.O. BOX 2087
HUNTSVILLE, AL 35804

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OFFICE OF PETITIONS

In re Application of :
John A. Ireland :
Application No. 10/264,362 : DECISION GRANTING PETITION
Filed: October 4, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 98-0487.71 :

This is a decision on the petition, filed July 2, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on October 6, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of February 10, 2005 accompanies this decision on petition.

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

This application is being forwarded to Technology Center 3700 for examination in due course.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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OFFICE OF PETITIONS

In re Application of	:	
John A. Ireland	:	
Application No. 10/264,366	:	DECISION GRANTING PETITION
Filed: October 4, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 98-0487.88	:	

This is a decision on the petition, filed July 2, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on October 6, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of December 23, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-5685.[1]

This matter is being referred to Technology Center Art Unit 2841 for examination in due course.

Wan Layton

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

[1] Effective September 27, 2004, the phone number will be 571-272-3220.

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LANIER FORD SHAVER & PAYNE
P O BOX 2087
HUNTSVILLE, AL 35804

In re Application of	:	
Ireland	:	
Application No. 10/264,368	:	ON PETITION
Filed: October 4, 2002	:	
Attorney Docket No.: 98-0487.87	:	

This decision is in response to the petition, filed January 6, 2003, under 37 CFR 1.182 to accord this application a filing date of October 4, 2002.

The application was filed October 4, 2002. On November 4, 2002 the Office of Initial Patent Examination mailed a Notice of Omitted Items in a Nonprovisional Application ("Notice"). The Notice indicated that the application had been accorded a filing date but that the application appeared to have been deposited without Figure 8 as referenced in the specification.

In response, the present petition was filed January 6, 2003. Petitioner argues that the Notice should be withdrawn as the application as deposited included 9 sheets of drawings, including Figure 8. Petitioner has included as proof of mailing and proof of receipt of the referenced drawing a return postcard date stamped by the Office on October 4, 2002. A copy of the original drawing sheet containing Figure 8 purportedly filed with the application on October 4, 2002 was also supplied.

The original drawing sheet containing Figure 8 submitted with the application papers has not been located. However, in view of the evidence presented, the petition to accord the application a filing date of October 4, 2002 is GRANTED.

Since the original drawing sheet containing Figure 8 cannot be located in the Office, the copy supplied with the instant petition will be used for examination purposes.

The petition fee of $130.00 submitted with the instant petition is unnecessary. A refund from the Finance Office, Refund Section, has been requested on petitioner's behalf.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of October 4, 2002.

BEST AVAILABLE COPY

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:
John A. Ireland	:DECISION GRANTING PETITION
Application No. 10/264,368	:UNDER 37 CFR 1.137(b)
Filed: October 4, 2002	:
Attorney Docket No. 98-0487.87	:

This is a decision on the petition, filed July 2, 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 Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on October 6, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

The instant petition has been found to be in compliance with 37 CFR 1.137(b).

Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 4, 2004 accompanies this decision on petition.

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

This matter is being referred to Technology Center AU 2841.

Wan Laymon

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

1644

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

CAMPBELL & FLORES LLP
4370 LA JOLLA VILLAGE DRIVE
7TH FLOOR
SAN DIEGO CA 92122

COPY MAILED
FEB 06 2004
OFFICE OF PETITIONS

Applicant: Ruoslahti et al.
Appl. No.: 10/264,374
Filing Date: October 3, 2002
Title: NGR RECEPTOR AND METHODS OF IDENTIFYING TUMOR HOMING MOLECULES THAT HOME TO ANGIOGENIC VASCULATURE USING SAME
Attorney Docket No.: 66654-743 (P-LJ 5419)
Pub. No.: US 2003/0113320 A1
Pub. Date: June 19, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on August 19, 2003 for the above-identified application.

The request is granted.

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

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

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

09-20-04 PET DEC 1765

PTO/SB/83 (09-03)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Application Number	10/264,393
Filing Date	10/04/2002
First Named Inventor	MALIK
Art Unit	1765
Examiner Name	SONG, M.J.
Attorney Docket Number	SGEN-P004

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

Approved JMStone DEC 13 2004
Jacqueline M. Stone, Director
Technology Center 1700

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

- [ ] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [x] the attorneys/agents associated with Customer Number 41066

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:
- Per client request
- There is an outstanding term for response that is set to expire on, 09/30/2004

CORRESPONDENCE ADDRESS

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

RECEIVED SEP 21 2004 OIPE/JC145

- [ ] Customer Number:

OR

[x] Firm *or* Individual Name	Silicon Genesis Corporation				
Address	590 Division Street				
Address					
City	Campbell	State	CA	Zip	95008
Country	USA				
Telephone	(408) 228-5858			Fax	(408) 228-5859
Name	James P. Hao				
Signature		Registration No.	36,398		
Date	09/16/2004	Telephone No.	(408) 938-9060		

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW May-06

MARTIN & HENSON, P.C.
9250 W 5TH AVENUE
SUITE 200
LAKEWOOD CO 80226

COPY MAILED
MAY 16 2006
OFFICE OF PETITIONS

In re Application of	:	
Wayne J. Kraft	:	
Application No. 10/264,399	:	DECISION ON PETITION
Filed: 3 October, 2002	:	
Atty Docket No. 7111.02.01	:	

This is a decision on the petition filed on 27 December, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 20 October, 2005, for failure to timely respond to the non-final Office action mailed on 20 April, 2005, which set a three (3) month shortened statutory period for reply. On 29 September, 2005, petitioner requested a three month extension of time. On 29 October, 2005, an amendment was filed. Notice of Abandonment was mailed on 14 December, 2005.

---

[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 states that the response filed on 24 October, 2005, is the reply required by the non-final Office action.

This application is being referred to Technology Center Art Unit 1723 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EDWARD S. SHERMAN, ESQ.
3554 ROUND BARN BLVD.
SUITE 303
SANTA ROSA CA 95403

COPY MAILED

JAN 1 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Michael White	:	
Application No. 10/264,411	:	DECISION ON PETITION
Filed: November 1, 2005	:	TO WITHDRAW
Attorney Docket No. 162.01NP	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed October 5, 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 Edward S. Sherman on behalf of all attorneys of record who are associated with customer No. 30480.

All attorneys/agents associated with the Customer Number 30480 have been withdrawn.

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

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

There are no pending office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: MICHAEL WHITE
297 PACIFIC HEIGHTS DRIVE
SANTA ROSA, CA 95403-7508

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
11/264,411	11/01/2005	Michael White	162.01NP

CONFIRMATION NO. 5643

OC000000021910785

OC000000021910785

30480
EDWARD S. SHERMAN, ESQ.
3554 ROUND BARN BLVD.
SUITE 303
SANTA ROSA, CA 95403

Date Mailed: 01/09/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/05/2006.

- 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
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

OIPE JC40
OCT 0 2 2003
PATENT & TRADEMARK OFFICE

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. ER 147062221US, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: October 2, 2003 Signature (Monica L. Thomas)

Docket No.: HO-P02738US0
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Jeff Martin, et al.

Application No.: 10/264,140

Group Art Unit: N/A

Filed: October 3, 2002

Examiner: Not Yet Assigned

For: BONE GRAFT PARTICLE DELIVERY APPARATUS AND METHOD

RESPONSE TO DECISION GRANTING PETITION UNDER 37 C.F.R 1.137 (B)

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

RECEIVED
OCT 0 7 2003
OFFICE OF PETITIONS

Dear Sir:

This is in response to the Decision Granting Petition Under 37 C.F.R. 1.137(b) mailed on September 4, 2003. Enclosed and submitted herewith is a revised Associate Power of Attorney for the above-referenced patent application.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 06-2375, under Order No. HO-P02738US0. A duplicate copy of this paper is enclosed.

Dated: October 2, 2003

Respectfully submitted,

By

RECEIVED
OCT 1 0 2003
TECHNOLOGY CENTER R3700

Melissa L. Sistrunk
Registration No.: 45,579
FULBRIGHT & JAWORSKI L.L.P.
1301 McKinney, Suite 5100
Houston, Texas 77010-3095
(713) 651-5151
Attorney for Applicant

25343479.1

#12

UNITED STATES PATENT & TRADEMARK OFFICE

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

Kilpatrich Stockton, LLP
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309-4530

MAILED

JUL 0 6 2004

Office of the Director
Group 3600

In re application of	:	
Raymond A. Bernard et al.	:	
Application No. 10/264,423	:	DECISION ON GRANTING A
Filed: October 4, 2002	:	COMPLETE RECORD OF
For: PADDED RAISED FLOORING	:	THE PRIOR ART AND
PANELS AND COVERINGS	:	WITHDRAWAL OF FINALITY

The petition filed under 37 CFR 1.182 is being construed as a petition to invoke the supervisory authority of the Director under 37 CFR 1.181. The petition, filed April 19, 2004, which requires the examiner to provide a complete record of the prior art upon which Examiner relies to reject the claims pending in the above referenced application (providing a translation of the foreign references used in the rejection), as well as the withdrawal of the finality of the outstanding Office action is addressed below.

The petition is granted to the extent indicated infra.

A review of the record reveals that a first office action was issued using French 2,368,587 and German 2,304,392 in a 35. U.S.C. 103(a) rejection. Thereafter,

applicant called the examiner to request a translation of the references used in the rejection and the examiner notified applicant that he was not in possession of a copy of the translations. A response to the first action was submitted by applicant and in that response, applicant did not respond to the art rejection of French 2,368,587 and German 2,304,392 stating that applicant could not read French nor German, and therefore, an analysis of the references could not be made. The examiner then issued a final rejection, again using the aforementioned references stating that the references, on their faces clearly showed the elements claimed in applicant's invention and did not provide a translation at that time. In the mean time, it was determined that the examiner had requested a written translation for the two documents.

MPEP 706.02 states:

"To determine whether both the abstract and the underlying document are prior art, a copy of the underlying document must be obtained and analyzed. If the document is in a language other than English and the examiner seeks to rely on that document, a translation must be obtained so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection . . . When both the abstract and the underlying document qualify as prior art, the underlying document should normally be used to support a rejection. In limited circumstances, it may be appropriate for the examiner to make a rejection in a non-final Office action based in whole or in part on the abstract only without relying on the full text document. In such circumstances, the full text document and a translation (if not in English) ***may*** [emphasis added] be supplied in the next Office action. Whether the next Office action may be made final is governed by MPEP § 706.07(a).

Applicant has interpreted the language in the MPEP to mean that a translation *must* be sent to the applicant to make the record clear. Clearly, nowhere in the MPEP does it state that providing a translation of a foreign document used in a rejection, to the applicant, is a matter of right, but at the discretion of the examiner. The MPEP merely states "a translation must be obtained so that the record is clear . . . " The type of translation is not specified (i.e., self-translation, oral translation, machine translation, written translation). At the time of the final rejection, written translations of the documents were not in the possession of the examiner. However, since the examiner has obtained written translations of the references, a copy of each will be provided to the applicant.

Applicant also requests that the finality of the rejection be withdrawn. The examiner was correct in interpreting MPEP 706.07(a) which clearly sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

A review of the record shows the finality was proper since a new grounds of rejection was not provided by the examiner where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). In addition, the examiner clearly explained their contents in support of the rejection. Therefore, the

finality of the office action is deemed proper. Since it was determined that the Office action does not contain a defect or error, applicant's period of response continues to run from the time of the final rejection. 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.

SUMMARY:

The petition is GRANTED for the examiner to provide a translation of the foreign references used in the rejection.

The petition is DENIED as to the petition to withdraw of the finality of the Office action.

Donald T. Hajec
Patent Technology Center 3600
(703) 306-4180

HCS:HCS: 5/26/04

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

JOHN MAIER, III
666 AARON COURT
KINGSTON NY 12401

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MAR 0 4 2003

OFFICE OF PETITIONS

In re Application of
Manell
Application No. 10/264,430
Filed: October 4, 2002
Attorney Docket No.1699-1
For: TREE STAND

DECISION GRANTING
PETITION

This is a decision on the petition, filed January 3, 2003, requesting, in effect, withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed November 8, 2002. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on October 4, 2002. On November 8, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioner that Figures 5 and 6 described in the specification appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that Figures 5 and 6 be accorded a filing date of October 4, 2002 on the basis that 5 sheets of drawing figures, including Figures 5 and 6, were received in the Patent and Trademark Office (PTO) on October 4, 2002. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing October 4, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 5 sheets of drawings. A review of the application file reveals only 3 pages of drawings are present.

The return postcard constitutes *prima facie* evidence that 5 sheets of drawing figures, including Figures 5 and 6, were filed on October 4, 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 4, 2002, using the copy of Figures 5 and 6 submitted with the instant petition. Office records will be corrected to show that 5 sheets of drawings were present on filing.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 08/03/2010

Applicant	: Da-shan Shiu	: DECISION ON REQUEST FOR
Patent Number	: 7653028	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/264,434	: 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 **51** 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

Paper No. 7

DONALD V. STEWARD
1000 BANBURY COURT
NAPA, CA 94558-4354

COPY MAILED

JUL 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Steward, Donald :
Application No. 10/264,437 :
Filed: October 3, 2002 :
Attorney Docket No. 108.02 :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 28, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. 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.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed December 3, 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 timely obtained. Accordingly, the above-identified application became abandoned on February 4, 2003. A Notice of Abandonment was mailed on February 17, 2004.

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 items (1). The Office acknowledges the submission of the replacement drawings and the additional fees. However, the Notice also set forth the requirement of an abstract. Petitioner must submit the missing abstract according to the specifications given on the Notice to revive the above-identified application.

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 $740.00 extension of time fee submitted with the petition on June 28, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary. However, the fees set forth in the Notice have increased from a total of $87.00 to $88.00. Accordingly, $739.00 of the extension of time fee will be credited to petitioner's credit card.

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.

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

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

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

2011 South Clark Place
Crystal Plaza 1 Lobby
Room 1B03
Arlington, VA 22202

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

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

cc: EDWARD S. SHERMAN, ESQ.
3554 ROUND BARN BLVD., SUITE 303
SANTA ROSA, CA 95403

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 10

DONALD V. STEWARD
1000 BANBURY COURT
NAPA, CA 94558-4354

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JUL 2 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Steward, Donald	:	
Application No. 10/264,437	:	ON PETITION
Filed: October 3, 2002	:	
Attorney Docket No. 108.02	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed July 12, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed December 3, 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 February 4, 2003. A Notice of Abandonment was mailed on February 17, 2004.

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

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 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

cc: EDWARD S. SHERMAN, PH.D.
3354 ROUND BARN BOULEVARD
SUITE 303
SANTA ROSA, CA 95403

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

AKERMAN SENTERFITT & EDISON P.A.
SUITE 400
222 LAKEVIEW AVENUE
WEST PALM BEACH, FL 33401

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DEC 2 6 2002

OFFICE OF PETITIONS

In re Application of	:	
Elio Marioni	:	
Application No. 10/264,443	:	NOTICE
Filed: October 4, 2002	:	
Attorney Docket No. 7202-11	:	

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 the Office of Initial Patent Examination.

Wan Laymon
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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DIAMOND LAW OFFICE
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SECAUCUS, NJ 07094

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MAY 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Joseph J. Hlavka et al :
Application No. 10/264,454 : ON PETITION
Filed: October 4, 2002 :
Attorney Docket No. TGX-tet1 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 20, 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 November 12, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1616 for processing of the request for continued examination under 37 CFR 1.114 for consideration of the concurrently filed amendment.

Wan Laymon
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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Date : May 20, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Joseph J. Hlavka et al
Application No. : 10/264,454
Filed : Ocotber 4, 2002

The above-identified application has been assigned Patent No. 6,897,204 and an issue date of May 24, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicants. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 24, 2005:

"All reference to Patent No. 6,897,204 to Joseph J. Hlavka et al of Tuxedo Park, NY for TETRACYCLINE DERIVATIVES AND METHODS OF USE THEREOF appearing in the Official Gazette of May 24, 2005 should be deleted since no patent was granted."

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

cc: Paul Harrison; Crystal Park 3, Suite 441 (FAX-703-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

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JUL 27 2005

OFFICE OF PETITIONS

In re Application of :
Joseph J. Hlavka et al :
Application No. 10/264,454 : DECISION ON PETITION
Filed: October 4, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. TGX-tet1

This is a decision on the petition under 37 CFR 1.78(a)(6), filed May 20, 2005 and supplemented on July 19, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

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

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/327,502, which was filed on October 5, 2001, for which priority is claimed.

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

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

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

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 1616 for appropriate action on the amendment submitted May 20, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/327,502.

Frances Hicks

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

Attachment: Corrected Filing Receipt

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SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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OFFICE OF PETITIONS

In re Application of	:	
Stefan Scheinert et al	:	
Application No. 10/264,463	:	DECISION GRANTING PETITION
Filed: October 3, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 5, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 4, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 5, 2005. A Notice of Abandonment was mailed on April 18, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (amendment), (2) the $1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of January 4, 2005 is accepted as having been unintentionally delayed.

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

inquiry results in the discovery that the delay was intentional, petitioner must notify the Office.

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

This matter is being referred to Technology Center AU 2617 for appropriate action in the normal course of business on the reply received May 5, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

Hello Denise
Please enter this amendment

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Thanks
Dark.

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LOS ANGELES, CA 90025-1030

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OFFICE OF PETITIONS

In re Application of	:	
Stefan Scheinert et al	:	
Application No. 10/264,463	:	DECISION GRANTING PETITION
Filed: October 3, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 5, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 4, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 5, 2005. A Notice of Abandonment was mailed on April 18, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (amendment), (2) the $1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of January 4, 2005 is accepted as having been unintentionally delayed.

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

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P.O. BOX 2902-0902
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of :
Teruhiro Shiono et al :
Application No. 10/264,467 :
Filed: October 4, 2002 :
Attorney Docket No. 10873.1045US01

ON PETITION

This is a decision on the petition, filed April 15, 2005 which is being treated as a petition, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 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 Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 2872 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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MAR 2 1 2003

OFFICE OF PETITIONS

David M. Laprairie, Esq.
Howard & Howard Attorneys, P.C.
Suite 101, 39400 Woodward Avenue
Bloomfield Hills, MI 48304-5151

In re Application of
Jaycox et al.
Application No. 10/264,476
Filed: October 4, 2002
Attorney Docket No. 68,002-348

DECISION GRANTING PETITION

This is a decision on the petition filed December 9, 2002, to withdraw the "Notice of Omitted Item(s) in a Nonprovisional Application" mailed on November 29, 2002.

On October 4, 2002, applicants filed the above-identified application. On November 29, 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 4, 2002, and advising applicants that page 4 of the specification appeared to have been omitted.

In response, on December 9, 2002, applicants filed the present petition, the petition fee, and a copy of applicants' postcard receipt acknowledging receipt of 17 pages of specification. Additionally, applicants submitted a copy of page 4 of the specification with the present petition.

Upon review of the record, page 4 of the specification, deposited on October 4, 2002, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on October 4, 2002, included page 4, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including page 4 of the specification, was complete on filing and will be granted a filing date of October 4, 2002.

Accordingly, the petition is granted. The Notice of Omitted Item(s), was sent in error and is hereby vacated. Accordingly, the $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 08-2789.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of October 4, 2002, using page 4 of the specification submitted on petition, and for 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

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Paper No. 6

MAR 1 6 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Thomas A. Turano
TESTA, HURWITZ, & THIBEAULT, LLP
High Street Tower
125 High Street
Boston, MA 02110

In re Application of:
Wu
Application No. 10/264,487
Filed: October 04, 2002
For: METHODS AND SYSTEMS FOR COMMUNICATING OVER A CLIENT-SERVER NETWORK

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed February 27, 2004.

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

The request filed February 27, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

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

for James R. Matthews

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

cc: John D. Lanza, Esq.
LAHIVE & COCKFIELD, LLP
28 State Street, 24th Floor
Boston, MA 02110

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SUITE 800
FORT WAYNE IN 46802

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OFFICE OF PETITIONS

In re Application of :
Bruce H. Robie, et al. :
Application No. 10/264,496 : ON PETITION
Filed: October 4, 2002 :
Attorney Docket No. ZIM0503 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 23, 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 December 27, 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 March 28, 2006

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/656,766.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/264,496	10/04/2002	Bruce H. Robie	Implex-15

CONFIRMATION NO. 4462

OC000000024079568

Duane Morris LLP
100 College Road West, Suite 100
Princeton, NJ 08540

Date Mailed: 05/25/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/23/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

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

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PRINCETON JUNCTION, NJ 08550

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OFFICE OF PETITIONS

In re Application of :
Dennis James Miller, et al. :
Application No. 10/264,498 :
Filed: October 4, 2002 :
Attorney Docket No. 159.1133 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 2, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 28, 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)(II)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. 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.

A review of the record shows that the petitioner has filed a Request For A Pre-Appeal Conference along with a declaration of Claude Lambert. The proper recourse for requesting a pre-appeal conference is as follows:

> Applicant must file a notice of appeal in compliance with 37 CFR 41.31.

Applicant must file the request with the filing of a notice of appeal and before the filing of an appeal brief.

Since the notice of appeal and fee were not properly filed with the request for a pre-appeal conference the petition for revival under the unintentional standard 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.

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) 272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

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PRINCETON JUNCTION, NJ 08550

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OFFICE OF PETITIONS

In re Application of :
Dennis James Miller, et al. :
Application No. 10/264,498 : DECISION ON PETITION
Filed: October 4, 2002 :
Attorney Docket No. 159.1133 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 26, 2007, to revive the above-identified application.

The petition is **GRANTED**.

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

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 28, 2006. 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 December 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 a Notice of Appeal with appeal fee of $510; (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3711 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

April M. Wise
Petitions Examiner
Office of Petitions

~~AFR~~
IFW

OIPE
APR 03 2008
PATENT & TRADEMARK OFFICE

ARK:fj 1591133RespDOP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Applicant	:	Dennis James Miller et al.
Serial No.	:	10/264,498
Filed	:	October 4, 2002
For	:	LOTTERY TICKET PLAY ACTION GAME
Examiner	:	Delores R. Collins
Art Unit	:	3711
Attorney Docket No.	:	159.1.1133

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: MAIL STOP PETITIONS, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 20231-1451
ON March 31,2008
NAME Fay Josephson
SIGNATURE Fay Josephson

March 31, 2008

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1451

Response to Decision on Petition

Dear Sir:

The Decision on Petition of March 17, 2008 (copy enclosed) indicated that there was a two-month period for filing a brief under 37 CFR 41.37 or taking further action.

Prior to the filing of a brief, applicants hereby request a Pre-Appeal Conference in accordance with the enclosed Request. In support of the Request, applicants submit a copy of the previously filed Declaration of Claude Lambert, the Vice-President of initial Product Development of the Assignee herein.

Entry and consideration of the Request for Pre-Appeal Conference is therefore deemed proper and respectfully requested.

It is believed that no fee is due in connection with this matter. However, if any fee is due, it should be charged to deposit account no. 23-0510.

Very respectfully submitted,

Allen R. Kipnes, Esquire
Registration No. 28,433
Attorney for Applicant

Address All correspondence to:
Allen R. Kipnes, Esquire
WATOV & KIPNES, P.C.
P.O. Box 247
Princeton Junction, NJ 08550
(609) 243-0330

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 03 2008
PATENT & TRADEMARK OFFICE

WATOV & KIPNES, P.C.
P.O. BOX 247
PRINCETON JUNCTION, NJ 08550

COPY MAILED
MAR 17 2008
OFFICE OF PETITIONS

RECEIVED
MAR 20 2008
BY:

In re Application of
Dennis James Miller, et al.
Application No. 10/264,498
Filed: October 4, 2002
Attorney Docket No. 159.1133

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 26, 2007, to revive the above-identified application.

The petition is **GRANTED**.

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

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 28, 2006. 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 December 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 a Notice of Appeal with appeal fee of $510; (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3711 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 7

JULIE W. MEDER
WEBB ZIESENHEIM LOGSDON ORKIN & HANSON, P.C.
436 SEVENTH AVENUE
700 KOPPERS BUILDING
PITTSBURGH PA 15219

COPY MAILED

SEP 16 2004

OFFICE OF PETITIONS

In re Application of	:	
Rhonda L. Monks	:	
Application No. 10/264,520	:	ON PETITION
Filed: October 4, 2002	:	
Attorney Docket No. 4502-040235	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Office action mailed February 27, 2003. Accordingly, this application became abandoned on May 28, 2003. A Notice of Abandonment was mailed on October 3, 2003.

The file is being forwarded to Technology Center 1700 for review of the amendment filed July 23, 2004.

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

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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BAE SYSTEMS
PO BOX 868
NASHUA NH 03061-0868

MAILED

MAR 05 2009

OFFICE OF PETITIONS

In re Patent No. 7,269,127 :
Issue Date: September 11, 2007 :
Application No. 10/264,546 : NOTICE
Filed: October 4, 2002 :
Attorney Docket No. 20070007 :

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

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

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

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

There is no fee for the filing of the above request under 37 CFR 1.28. Petitioner may request a refund of the petition fee of $130.00 paid on December 17, 2008. A copy of this notice should accompany the request.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APR 13 2005

In re Application of Donald C. Haagstad Serial No. : 10/264,560 Filed : October 3, 2002 For : Bicycle Attachment Device	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT :

This is a decision on a paper filed October 12, 2004 that is being treated as a request to review the holding of abandonment mailed September 30, 2004, for failure to respond to the Office action mailed March 26, 2004. There is no fee required for this request/petition.

Petitioner has submitted a copy of a response that included a Certificate of Mailing dated April 23, 2004, but provided no evidence, such as PTO-stamped post card receipt, to show the receipt of such a communication. However, no such evidence will be required as a review of the file shows that the communication in question was received on April 28, 2004 and temporarily misplaced. Any inconvenience is deeply regretted.

In view of the above, the Notice of Abandonment mailed September 30, 2004, is in error and is hereby vacated. The holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry and consideration of the response filed April 28, 2004.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700
Phone: (571) 272-3750

Donald C. Haagstad
2975 Applewood Ct
Napa, CA 94558

ak/04/06/05

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

COPY MAILED

JAN 30 2007

OFFICE OF PETITIONS

In re Application of	:	
GUNDERSON et al	:	
Application No.: 10/264,574	:	DECISION ON PETITION
Filing Date: October 4, 2002	:	UNDER 37 CFR 1.78
Attorney Docket No.: 68205.000003	:	
(031229.0012.CON2)	:	

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed December 7, 2006, to accept an unintentionally delayed claim under 35 U.S.C. 120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed Application Data Sheet (ADS).

The petitions are **DISMISSED**.

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

A petition for acceptance of a late claim for 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 37 CFR 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

An amendment or ADS filed after final rejection or allowance is not entered as a matter of right and must be filed in compliance with 37 CFR 1.116 or 1.312, respectively. MPEP 201.11, Rev. 5, Aug. 2006, page 200-67, bottom right hand column. The examiner has advised that the ADS submitted after final rejection will not be entered. Petitioner may wish to consider filing a request for continued examination (RCE) under 37 CFR 1.114.

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 Bryan Lin at (571) 272-3303.

This application is being referred to Technology Center Art Unit 1634 for appropriate treatment of the ADS submitted on December 7, 2006.

BryanLin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

Boris Milef
Legal Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MERCHANT & GOULD, P.C.
P.O.BOX 2903
MINNEAPOLIS, MN 55402

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Kevin Gunderson, et. al.	:	
Application No. 10/264,574	:	DECISION ON PETITION
Filed: October 4, 2002	:	TO WITHDRAW
Attorney Docket No. 039751-0302989	:	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 9, 2006.

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

A review of the file record indicates that the power of attorney to MERCHANT & GOULD, P.C. has been revoked by the assignee of the patent application on August 14, 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: HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 24, 2005

TO SPE OF : ART UNIT 1713

SUBJECT : Request for Certificate of Correction on Patent No.: 6,852,781 ,

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

Column 52 lines 5-10

Please complete this form and return with file, within **7** days to:

Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**

If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

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

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

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

Note your decision on the appropriate box.

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

Comments:

Most are typo errors.

Wu — **SPE**

1713 — **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

GREENBERG TRAURIG LLP
2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA, CA 90404

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OFFICE OF PETITIONS

In re Patent No. 6,805,837
Issue Date: October 19, 2004
Application No. 10/264,605
Filed: October 4, 2002
Attorney Docket No. 56990-010600

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.78(a)(3) AND
:REQUEST FOR CERTIFICATE
:OF CORRECTION
:

This is a decision on the petition filed October 4, 2005, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 09/192,969, filed November 16, 1998, by way of a certificate of correction.[1]

The petition is **granted**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed October 4, 2002. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

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 nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

It is noted that the statement of unintentional delay references 37 CFR 1.78(a)(5)(ii), whereas, the applicable rule is 37 CFR 1.78(a)(2)(ii). Nevertheless, the statement of unintentional delay will be construed as the statement required by 37 CFR 1.78(a)(3).

---

[1] Re-submitted on October 26, 2005.

As authorized, the $1,370 surcharge fee, as well as the $100 certificate of correction fee, will be charged to petitioner's Deposit Account No. 50-2638.

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

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

This matter is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STEVEN A. GARNER, ESQ.
CONAIR CORPORATION
ONE CUMMINGS POINT ROAD
STAMFORD, CT 06902

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OFFICE OF PETITIONS

In re Application of

Mary G. LaFauci

Application No. 10/264,614

Filed: October 4, 2002

Attorney Docket No. 156893

DECISION ON PETITION

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

The petition is **GRANTED**.

A final Office action was mailed in the above-cited application on May 31, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No response was filed within the allowable period. The application became abandoned on September 1, 2005. A Notice of Abandonment was mailed December 16, 2005.

The Request for Continued Examination, filed September 1, 2006, is noted and made of record.

The application is being forwarded to Technology Center 3700, GAU 3732 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

Paper No.: _____

DATE : January 29 2008

TO SPE OF : ART UNIT 2813

SUBJECT : Request for Certificate of Correction for Appl. No. 10/264615 patent no.6875646

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.

Should references be included?

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: _____

SPE

2813

Art Unit

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JUN 8 - 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of
Jason A. Ashton
Application No. 10/264,617
Filed: October 3, 2002

SECURE INPUT DEVICE

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on May 11, 2005.
A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Attorneys/agents listed in the Request to withdraw are withdrawn.

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

Cc: JASON A. ASHTON
CARDPRESENT TECHNOLOGIES, INC.
903 WHISPERING PINES DRIVE
SCOTTS VALLEY, CA 95066

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

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

Mail Date: 04/21/2010

Applicant	: Stan Mansfield	: DECISION ON REQUEST FOR
Patent Number	: 7657304	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/264,630	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/05/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1475** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

PATENT COUNSEL, MS/2061
APPLIED MATERIALS, INC.
Legal Affairs Department
P.O. Box 405A
Santa Clara CA 95052

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OFFICE OF PETITIONS

In re Application of Mark N. Kawaguchi et al. Application No. 10/264,664 Filed: October 4, 2002 Attorney Docket No.: 006094/ETCH/CONE/ Title: METHODS AND APPARATUS FOR STRIPPING	: : : : : : :	DECISION ON PETITIONS UNDER 37 C.F.R. §§ 1.181 and 1.137(a)

This is a decision on the petitions under 37 CFR §§ 1.181 and 1.137(a)[1], filed August 9, 2004 and September 7, 2004 respectively, to withdraw the holding of abandonment and to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of File Corrected Application Papers (notice), mailed November 14, 2002, which set a shortened statutory period for reply of two (2) 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 January 15, 2003. A Notice of Abandonment was mailed August 26, 2004.

With the instant petition, petitioner has included the fee associated with the filing of a petition under 37 C.F.R. §1.137(a), several statements of facts, and print-outs of two computer screens.

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 petition under 37 C.F.R. §1.181

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.

The printout petitioner has supplied fails to establish non-receipt of an Office communication. Although Petitioner has submitted an attestation that a search of the file jacket and docket records indicates that the Office communication was not received, the printouts Petitioner has supplied do not serve as a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed. Each of the printouts supplied contains a heading which reads "Docket Number 006094," which would appear to indicate that these print-outs consist of a listing of all "due dates" for a particular file, the present application. 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. As the printout merely concerns the contents of this particular file, it fails to show the correspondence at issue was not received and merely misplaced and filed with another file.

As such, the petition under 37 C.F.R. §1.181 must be **DISMISSED**.

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

With the instant petition, Petitioner has submitted the required reply, as well as the petition fee and documentary evidence which establishes that the entire period of delay was unavoidable.

As such, the petition under 37 C.F.R. §1.137(a) is **GRANTED**.

After this decision is mailed, the application will be forwarded to Technology Center 1700 for further processing.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

It is not apparent whether the person signing the statement of unavoidable 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 delay2. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.137(a) was avoidable, Petitioner must notify the Office.

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

cc: BALZAN,CHRISTOPHER
Aagaard and Balzan, LLP
674 County Square Dr, Suite 105
Ventura, CA 93003

2 See 37 CFR 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

UNITED STATES PATENT AND TRADEMARK OFFICE

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R. Scott Weide
Weide & Miller, Ltd.
7251 W. Lake Mead Blvd., STE 530
Las Vegas, NV 89128

MAILED

JUL 01 2004

Director's Office
Group 3700

Paper No. 7

In re Application of
Prisco et al.
Application No.: 10/264,665
Filed: October 4, 2002
For: Toilet Ventilation System

DECISION ON PETITION

This is a decision on petitioner's request filed 12/15/2003, requesting withdrawal of the holding of abandonment of the above-identified application because the office action mailed 3/21/03 was not received.

The petition is granted.

In support of the request, petitioner has provided a showing of:
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, and, a copy of the docket record where the non-received Office communication would have been entered had it been received (1156 O.G. 53 (November 16, 1993)).

In view of the above, the Notice of Abandonment mailed 11/17/2003 is in error and is hereby vacated. The holding of abandonment is withdrawn.

The Office communication will be remailed and the shortened statutory period that was originally set forth in the Office communication shall be restarted to run from the mail date of the newly supplied Office action or notice.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch

Richard A. Bertsch, Director
Groups 3740 & 3750
Phone: (703) 308-0975
Fax: (703) 308-7764

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BRADLEY T. SAKO
WALKER & SAKO LLP
300 SOUTH FIRST STREET, SUITE 235
SAN JOSE, CA 95113

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APR 15 2005

OFFICE OF PETITIONS

In re Application of	:
David V. James et al	:
Application No. 10/264,667	: DECISION GRANTING PETITION
Filed: October 4, 2002	: UNDER 37 CFR 1.183
Attorney Docket No. CD1138	:

This is a decision on the "Petition to File Declaration on Behalf of Non-Signing Inventor (37 C.F.R. §1.47(a)), filed February 3, 2005, which, for the reasons stated below, is being treated as a petition under 37 CFR 1.183 to waive 37 CFR 1.131 to the extent that it requires that all of the named inventors execute the declaration filed thereunder.

The petition is granted to the extent infra.

The petition has been filed under the provisions of 37 CFR 1.47(a). However, when an inventor who executed the original declaration [oath] is refusing or cannot be found to execute a subsequent declaration, it is possible that the requirement may be suspended or waived in accordance with 37 CFR 1.183. *Note* MPEP 603. Therefore, the submission of a petition under 37 CFR 1.47 is not the appropriate avenue of relief in this instance. Therefore, the petition has been treated under the provisions of 37 CFR 1.183 to waive the provisions of 37 CFR 1.131.

Petitioner herein (Bradley T. Sako) asserts that, in a telephone conversation on January 27, 2005, with co-inventor David V. James, Mr. James stated that he would not sign a declaration for the subject application due to differences with the assignee (Cypress Semiconductor Corporation). While the accompanying declaration under 37 CFR 1.131 indicates that inventors David V. James and Jagadeesan Rajamanickam contributed to the conception of the claimed invention which is under rejection, only inventor Rajamanickam has executed the attached declaration under 37 CFR 1.131 in support of establishing conception of the claimed invention prior to August 24, 2001.

As noted in MPEP 715.04, an adequate showing may lead to acceptance of a declaration under 37 CFR 1.131 executed by less than all the named inventors of the claimed subject matter in question. Under the facts presented, it is agreed that justice requires waiver of the rules to the extent that they require David V. James to declare. However, the favorable decision herein does not relieve applicants from their burden to establish that the invention was completed before the date of the reference and that the claimed invention was the product of the joint inventors. See In re Carlson, 79 F.2d. 900, 27 USPQ 400 (CCPA 1935).

Effective December 8, 2004, the fee for a petition under 37 CFR 1.183 was increased to $400. Therefore, pursuant to an authorization contained in the transmittal letter for this application, the balance due will be charged to petitioner's deposit account.

This application is being forwarded to Technology Center AU 2189 for further examination on the merits.

Inquiries regarding this communication may be directed to the undersigned at (571) 272-3218.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO CA 94108

MAILED

JUN 30 2010

OFFICE OF PETITIONS

In re Patent No. 7,631,092	:	DECISION ON REQUEST
Barnes	:	FOR
Issue Date: December 08, 2009	:	RECONSIDERATION OF
Application No. 10/264,701	:	PATENT TERM ADJUSTMENT
Filed: October 3, 2002	:	and
Atty Docket No. ORACL-01065US1	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 22, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by **One thousand two hundred ninety four (1294)** days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **One thousand two hundred ninety three (1293)** days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on October 4, 2005 and ends on November 1, 2007, the day before the RCE was filed. See 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 759 not 760 days. Accordingly, the patent term adjustment is now increased to 1293 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a

certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **One thousand two hundred ninety three (1293)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

SK

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,631,092 B2

DATED : **December 8, 2009** **DRAFT**

INVENTOR(S) : Barnes

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 891 days

Delete the phrase "by 891 days" and insert – by 1293 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MICHAEL SIGEL
321 S. COBLE
MERION, KS 66861

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FEB 12 2003

OFFICE OF PETITIONS

In re Application of :
Kenneth Klabunde, Aleksandr Bedilo, :
Olga Koper and Michael Sigel : LETTER
Application No. 10/264,710 :
Filed: October 4, 2002 :
Attorney Docket No. 32775 :
Title: CARBON-COATED METAL OXIDE :
NANOPARTICLES

Dear Mr. Sigel:

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 Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson

Nancy Johnson
Petitions Attorney
Office of Petitions

TRACY BORNMAN
HOVEY WILLIAMS TIMMONS & COLLINS
2405 GRAND BLVD.,
SUITE 400
KANSAS CITY, MO 64108
(816) 474-9050

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

HOVEY WILLIAMS TIMMONS & COLLINS
2405 GRAND BLVD.,
SUITE 400
KANSAS CITY, MO 64108

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FEB 12 2003

OFFICE OF PETITIONS

In re Application of Kenneth Klabunde, Aleksandr Bedilo, Olga Koper and Michael Sigel Application No. 10/264,710 Filed: October 4, 2002 Attorney Docket No. 32775 Title: CARBON-COATED METAL OXIDE NANOPARTICLES	DECISION ACCORDING STATUS UNDER 37 CFR § 1.47(a)

This is a decision on the "Petition under 37 CFR 1.47(a)," filed January 14, 2003. This petition is considered in light of the amended petition filed February 11, 2003.

The petition is **GRANTED**.

The above-identified application was filed on October 4, 2002, without an executed oath or declaration. Kenneth Klabunde, Aleksandr Bedilo, Olga Koper and Michael Sigel were named as joint inventors. Accordingly, on November 14, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed declaration, and a surcharge for its late filing. This Notice set a period for reply of two months from the mailing date of the notice.

On January 14, 2003, applicants timely responded with a declaration executed by joint inventors Klabunde, Bedilo, and Koper on behalf of themselves and on behalf of non-signing inventor Sigel; the late surcharge under § 1.16(l); and the instant petition (and petition fee).

Rule 47 applicants maintain that status under 37 CFR 1.47 is proper because joint inventor Michael Sigel refuses to join in the application for patent. A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. By declaration of Melissa Hull, a person with firsthand knowledge of

the pertinent facts, petitioner has shown that the inventor has been presented the application papers by registered mail and has refused to sign the declaration. In addition, the inventor has not responded to telephone calls made to discuss this matter. Copies of the memo transmitting the application papers, the letter reminding the inventor of the need to sign the declaration, and the signed certified mail receipt confirming receipt were made a part of the declaration of facts.

The declaration filed January 14, 2003, and the petition have been reviewed and found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

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

The application file is being forwarded to Technology Center 1754 for examination in due course.

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

Nancy Johnson
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 14

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JUN 2 6 2003

OFFICE OF PETITIONS

Greg Dubin
Dorsey and Whitney LLP
370 17th Street Suite 4700
Denver, CO 80202

In re Application of :
Hunt, et al. :
Application No. 10/264,716 :
Filed: October 3, 2002 :
Atty. Dkt. No.: 11853.00 :
For: OPTICAL TESTING OF INTEGRATED :
CIRCUITS WITH TEMPERATURE CONTROL :

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(a)

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed May 23, 2003.

The petition is **GRANTED**.

Petitioner has shown that inventor Don Haga has refused to join in the filing of the above-identified application after having been presented with the application papers.

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

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

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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JUN 2 6 2003

OFFICE OF PETITIONS

DON HAGA
621 dERBYSHIRE pLACE
DANVILLE, CA 94526

In re Application of Hunt, et al. Application No. 10/264,716 Filed: October 3, 2002 Atty. Dkt. No.: 11853.00 For: OPTICAL TESTING OF INTEGRATED CIRCUITS WITH TEMPERATURE CONTROL	LETTER

Dear Sir:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

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MAY 16 2003

OFFICE OF PETITIONS

Greg Dubin
Dorsey and Whitney LLP
370 17th Street Suite 4700
Denver, CO 80202

In re Application of :
Hunt, et al. :
Application No. 10/264,716 :
Filed: October 3, 2002 :
Atty. Dkt. No.: 11853.00 :
For: OPTICAL TESTING OF INTEGRATED :
CIRCUITS WITH TEMPERATURE CONTROL :

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed May 12, 2003.

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

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

The above-identified application was filed October 3, 2002 without a fully executed oath or declaration naming Dean M. Hunt and Don Haga as joint inventors. Accordingly, on November 4, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge. A petition under 37 CFR 1.47(a) was filed March 4, 2003 and dismissed April 21, 2003.

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 USC 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition lacks requirement (2) set forth above. An acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 37 CFR 1.64 has not been presented. The declaration is required to identify the inventive entity in its entirety. While the declaration previously submitted was unacceptable because it failed to identify the non-signing inventor by residence and mailing address as required by 37 CFR 1.63(b)(1), the declaration submitted with the instant renewed petition is unacceptable because it fails to identify each inventor by name, citizenship, residence and mailing address in accordance with 37 CFR 1.63.

It is recommended that petitioner rely upon the first declaration

submitted as it has been executed by the available inventor and identifies the non-signing inventor by name and citizenship as required under 37 CFR 1.63. Petitioner must, however, upon renewed petition submit an Application Data Sheet in accordance with 37 CFR 1.76 identifying the non-signing inventor by name, mailing address, and residence.

Petitioner is reminded of recent changing in mailing addresses for correspondence submitted to the USPTO. 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
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

Greg Dubin
Dorsey and Whitney LLP
370 17th Street Suite 4700
Denver, CO 80202

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APR 2 1 2003

OFFICE OF PETITIONS

In re Application of Hunt, et al. Application No. 10/264,716 Filed: October 3, 2002 Atty. Dkt. No.: 11853.00 For: OPTICAL TESTING OF INTEGRATED CIRCUITS WITH TEMPERATURE CONTROL	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(b), filed March 4, 2003. Due to the availability of at least one inventor named in the application, this petition is being treated under 37 CFR 1.47(a).

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

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

The above-identified application was filed October 3, 2002 without a fully executed oath or declaration naming Dean M. Hunt and Don Haga as joint inventors. Accordingly, on November 4, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge.

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

The petition lacks requirement (2) set forth above. An acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 37 CFR 1.64 has not been presented. The declaration presented with the instant petition is not acceptable as it fails to identify the non-signing inventor by residence and mailing address as required by 37 CFR 1.63(b)(1).

Any renewed petition should be accompanied by a proper oath or declaration setting forth the inventor's proper mailing address and residence, or, such information may be provided in the form of an Application Data Sheet in accordance with 37 CFR 1.76.

Application No. 10/264,716

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
JUN 18 2004
Technology Center 2100

In re Application of:
Carey S. Nachenberg
Application No. 10/264,721
Filed: October 4, 2002
For: TEMPORAL ACCESS CONTROL FOR COMPUTER VIRUS PREVENTION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

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

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

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

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

James R. Matthews

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070126

DATE : January 26, 2007

TO SPE OF : ART UNIT 2193

SUBJECT : Request for Certificate of Correction on Patent No.: 6,971,087

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:

MENG-AI T. AN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE: Meng-Ai An **Art Unit** 2193

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : **US 6,971,087 B2**

DATED : **November 29, 2005**

INVENTOR(S) : **Kenneth S. Knapton III**

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:

OK TO Enter 1-25-07

Column 4:
Delete lines 38-63.

MAILING ADDRESS OF SENDER (Please do not use customer number

PATENT NO. **US 6,971,087 B2**

Timothy N. Trop
Trop, Pruner & Hu, P.C.
8554 Katy Freeway, Suite 100
Houston, TX 77024

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JAN 31 2006

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Paper No. None

VASCONNECT, INC.
1460 MARIA LANE
SUITE 310
WALNUT CREEK CA 94596

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SEP 22 2006
OFFICE OF PETITIONS

In re Application of	:	
Stanley R. Conston et al.	:	
Application No. 10/264,741	:	DECISION ON PETITION
Filing Date: October 3, 2002	:	UNDER 37 C.F.R. § 1.137(B)
Attorney Docket Number: VASC-004	:	
Title: DEVICES AND METHODS FOR	:	
INTERCONNECTING VESSELS	:	

This is a decision on the petition filed May 23, 2006 under 37 C.F.R. §1.181, which is properly treated as a petition under 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed August 25, 2005, which set a shortened statutory period to reply for one month. No extensions of time under the provisions of 37 C.F.R §1.136(a) were received. Accordingly, the above-identified

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.

application became abandoned on September 26, 2005. A Notice of abandonment was mailed on March 21, 2006.

With the present petition, Petitioner has submitted the petition fee, a response to the restriction requirement, and the proper statement of unintentional delay. A terminal disclaimer is not required.

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). 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 to the restriction requirement which was received with the present petition can be processed.

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.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted.

A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay[2].

In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the

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2 See 37 CFR 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

discovery that the delay was intentional, petitioner must notify the Office.

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

cc: Patrick Fay
Fay Kaplun & Marcin LLP
150 Broadway Suite 702
New York, NY 10038

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ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR 1-C-11
PLANO, TX 75024

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AUG 15 2008

In re Application of	:	
Jesper Fredriksson	:	
Application No. 10/264,752	:	ON PETITION
Filed: October 4, 2002	:	
Attorney Docket No. P12393US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 26, 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 June 13, 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 September 14, 2006.

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

This matter is being referred to Technology Center AU 2611 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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APR 13 2005

Commissioner for Patents
United States Patent and Trademark Office
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Clyde Jewel Norwood
2511 Providence Road South
Waxhaw, NC 28173

In re Application of Clyde J. Norwood Serial No. : 10/264,783 Filed : October 4, 2002 For : Piston Pin Spiral or Wire Lock Ring Insertion Tool	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT

This is a decision on petitioner's letter filed November 19, 2004 titled "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b), which letter is being treated as a petition/request to review the holding of abandonment mailed October 28, 2004 for failure to respond to the Office action mailed June 23, 2003. There is no fee required for this petition.

Requester indicates that the abandonment of the application for failing to timely respond to the Office action mailed June 23, 2003 within the three-month period set in the aforementioned communication was due to non-receipt of the Office action. A review of the file shows that the Office action mailed June 23, 2003 was returned undelivered on July 1, 2003.

Accordingly, in view of the above, the holding of abandonment is hereby withdrawn. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for the remailing of the Office action originally mailed June 23, 2003, which Office action will set a new period for response.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700
Phone: (571) 272-3750

ak/04/08/05

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BANK ONE CENTER/TOWER
SUITE 3700
111 MONUMENT CIRCLE
INDIANAPOLIS IN 46204-5137

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MAR 2 3 2007

OFFICE OF PETITIONS

In re Application of :
Christopher D. Wilsey :
Application No. 10/264,785 :
Filed: October 4, 2002 :
Attorney Docket No. 7404-426 :

ON PETITION

This is a decision on the petition, filed March 23, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on February 8, 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 1753 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Date : March 23, 2007

TO : Director, Office of Patent Publication

FROM : Office of Petitions

SUBJECT : Withdrawal from Issue of **Application No. 10/264,785**

Applicant(s) : Christopher D. Wilsey
Application No. : 10/264,785
Filed : October 4, 2002

The above-identified application has been assigned Patent No. 7,195,705 and an issue date of March 27, 2007.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of March 27, 2007:

> **"All reference to Patent No. 7,195,705 to Christopher D. Wilsey of Indiana for ELECTRODES, METHODS, APPARATUS COMPRISING MICRO-ELECTRODE ARRAYS appearing in the Official Gazette of March 27, 2007 should be deleted since no patent was granted."**

Karen Creasy
Karen Creasy
Petitions Examiner
Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie
Duane Davis (CDS)
Brad Harris
Kim Terrell

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 05/06/2010

Applicant	: Robin Hutchinson	: DECISION ON REQUEST FOR
Patent Number	: 7668947	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/264,789	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/04/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1125** 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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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

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OFFICE OF PETITIONS

In re Application of
Greg J. Kampa, et al.
Application No. 10/264,794
Filed: October 3, 2002
Attorney Docket No. 1001.1538102

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

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed May 19, 2003, 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 embodied in the instant petition.

The petition is **GRANTED.**

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

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on October 3, 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/326,861, which was filed on October 3, 2001, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii).

Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having

found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/326,861 is granted.

It is noted that the petition, request under 37 CFR 1.78(a)(6), and amendment were embodied in one paper. Petition should in the future comply with 37 CFR 1.4(c), which states:

> Since different matters may be considered by different branches or sections of the US Patent and Trademark Office, each distinct subject, inquiry or order should be contained in a separate letter to avoid confusion and delay in answering letters dealing with different subjects.

Additionally, petitioner should note that amendments to the application must comply with the provisions of 37 CFR 1.121.

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

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

Any questions concerning this decision on petition may be directed to Retta Williams at (703) 306-5594. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The matter is being referred to Technology Center AU 1732 for appropriate action on the amendment submitted December 8, 2003, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/326,861.

Frances Hicks

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

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Washington, D.C. 20231
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Paper No. 3

CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS MN 55403-2420

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MAY 1 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Carl A. Alberola et al	:	
Application No. 10/264,796	:	ON PETITION
Filed: October 4, 2002	:	
Attorney Docket No. 42P14362	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed April 16, 2003, to accept an unintentionally delayed claim under 35 U.S.C.§ 119(e) for the benefit of prior-filed provisional Application No. 60/326,861, filed October 3, 2001.

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 1.78(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed provisional application.

The instant pending nonprovisional application was filed on October 4, 2002, and the provisional Application No. 60/326,861, was filed on October 3, 2001. Therefore, since the instant application was not filed within twelve months of the filing date of the prior-filed provisional application, for which priority is claimed, the petition is dismissed as moot.

In view of the above, the $1,300 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

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

Copied from 10264796 on 03/21/2005

This application is being forwarded to the Office of Initial Patent Examination Division for pre-examination processing.

Frances Hicks

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

Copied from 10264796 on 03/21/2005

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BOURQUE & ASSOCIATES, P.A.
SUITE 301
835 HANOVER STREET
MANCHESTER NH 03104

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JAN 3 2005

OFFICE OF PETITIONS

In re Application of
Ralf Oberbeck
Application No. 10/264,800
Filed: October 4, 2002
Attorney Docket No. THIELK-020XX

ON PETITION

This is a decision on the "Petition For Filing Date Under 37 CFR 1.8", filed June 21, 2004.

In response to a Final Rejection mailed February 10, 2004, petitioner filed an amendment and remarks on April 1, 2004, by facsimile transmission and with a certificate of facsimile transmission pursuant to 37 CFR 1.8.

A review of the office records reveals that the papers filed April 1, 2004 were inadvertently placed in the file of another un-related application file but that subsequent to the filing of the instant petition, on July 1, 2004, were properly moved to the file of the instant application. The response therefore was timely filed on April 1, 2004.The copies of the response filed April 1, 2004 which was re-submitted with the instant petition, has been considered by the Examiner and an Advisory Action issued therefrom on July 26, 2004.

Thus, the present petition is unnecessary and will be **DISMISSED** as involving moot issues.

This application however, will be forwarded to Technology Center 3636 for the issuance of a Notice of Abandonment as the period for reply has expired and no additional replies have been filed in response to the Final Rejection mailed February 10, 2004 and the Advisory Action mailed July 26, 2004.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/264,802	10/03/2002	Derek O'Hagan	19388.002	5582

27476 7590 08/12/2009
NOVARTIS VACCINES AND DIAGNOSTICS INC.
INTELLECTUAL PROPERTY- X100B
P.O. BOX 8097
Emeryville, CA 94662-8097

EXAMINER
DEVI, SARVAMANGALA J N

ART UNIT	PAPER NUMBER
1645	

MAIL DATE	DELIVERY MODE
08/12/2009	PAPER

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

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

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AUG 1 2 2009

NOVARTIS VACCINES AND DIAGNOSTICS INC.
INTELLECTUAL PROPERTY- X100B
P.O. BOX 8097
Emeryville CA 94662-8097

In re Application of	:
O'Hagen et al.	: PETITION DECISION
Serial No.: 10/264,802	:
Filed: October 3, 2002	:
Attorney Docket No.: **19388.002**	

This is a response to the petition under 37 CFR 1.59(b), filed May 12, 2009, to expunge information from the above identified application.

Petitioner requests that the Information Disclosure Statement (IDS) filed May 8, 2009 be expunged from the record. Specifically, applicants state the IDS was erroneously submitted via EFS Web in the instant application but was intended to have been submitted in another application.

Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The $200.00 petition fee set forth in 37 CFR 1.17(h) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED. Also, petitioner's request for a refund of the duplicate IDS fee of $180.00 is also GRANTED.

Should there be any questions with respect to this decision, please contact Marianne C. Seidel, by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at general Office facsimile number: 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Manager
Technology Center 1600

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TUCKER ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1414

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OFFICE OF PETITIONS

In re Application of :
Robert C. Meier et al :
Application No. 10/264,851 : ON PETITION
Filed: October 2, 2002 :
Attorney Docket No. 72255/22794 :

This is a decision on the petition filed November 5, 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 in a timely manner in reply to the Notice of Allowance mailed August 2, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 3, 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; (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

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

UR
PAPER NO. 5

In re Application of	:	
Edward A. Pedrick et al.	:	
Serial Number: 10/264,856	:	PETITION
Filed: October 04, 2002	:	UNDER
For: PROCESS FOR PREPARING A STORAGE	:	M.P.E.P. 708.02, VIII
STABLE PREMIXED BATTER	:	

This is in response to the petition filed January 16, 2003, requesting that the application identified above be granted Special Status under Section 708.02 (VIII) of the MPEP and 37 CFR 1.102(d) (fee paid).

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

JMStone

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

Oppenheimer Wolff & Donnelly LLP
2029 Century Park East, Suite 3800
Los Angeles, CA 90067

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Date: 3/10/02

To: SPE, Art Unit 1761

From: Director's Office, 8D19

Subject: Petition for accelerated examination

A petition for accelerated examination, pursuant to MPEP 708.02 (VIII), has been filed in this application.

In order to respond to this request as promptly as possible, please complete the questions below and return to the Director's Office - CP3-8D 19 by COB 3/14/03.

	Yes	No
1. **Are all the claims directed to a single invention (no restriction required)?**	[✓]	[ ]
a. If "no", has the petitioner made an election in the petition?	[ ]	[ ]
b. If "no", has a restriction requirement been made by examiner?	[ ]	[ ]
If "no" to (b), give to examiner for telephone restriction only		
c. If "yes" to (b), was election made without traverse?	[ ]	[ ]
If "no" to (c), return to secretary for "DENIAL" of petition.		
2. **Is the field of search listed in the petition correct:**		
a. Classes and subclasses?	[ ]	[✓]
If "no", please list all reasonable, additional classes/subclasses 426/520, 521		
b. **Publications? (If applicable)**	[ ]	[ ]
If "no", please list all reasonable publications		
c. **Foreign patent IPC classes/subclass? (If applicable)**	[ ]	[ ]
If "no", please list all reasonable, additional IPC classes/subclasses		
d. **Database searches, e.g., Chemical Abstract? (If applicable)**	[ ]	[ ]
If "no", please list all reasonable, additional databases		
3. **Has a search been performed by a foreign patent office, e.g., is an EPO, JPO, or WIPO document present in the application file or supplied by applicant, and is the document for an equivalent foreign application?**	[ ]	[✓]
a. If "yes", does the document list an IPC type search?	[ ]	[ ]
b. If "yes" to (a), are the IPC classes/subclasses reasonable?(Optional)	[ ]	[ ]

PLEASE RETURN THIS SHEET AND THE APPLICATION TO THE DIRECTOR'S SECRETARY UPON COMPLETION.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON, TX 77010-3095

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JUN 04 2010

OFFICE OF PETITIONS

In re Application of
Tiffany L. Bierer, et. al.
Application No. 10/264,886
Filed: October 4, 2002
Attorney Docket No. HO-P02206US1

ON PETITION

This is a decision on the petition under 37 CFR 1.182 filed February 26, 2008, to "DEEM A RESPONSE TIMELY FILED", or in the alternative, a petition under 37 CFR 1.137(b) to revive the above-identified application. The delay in responding is sincerely regretted.

The application became abandoned for failure to file a reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed July 6, 2007.

Petitioner asserts, "In the response to the Non-Compliant Amendment Filed in Response to Non-Final Office Action, a typographical error was made in the claim numbering in which an original claim and a cancelled claim was numbered the same." Petitioner further asserts "The "Failure to Acceptably Respond to Notice of Non-Compliant Amendment" is a one page document only and shows the serial number written in by hand at the top of the page. No cover sheet is included. Applicant never received the notice and it appears from the File Wrapper that the USPTO never sent the notice."

A review of the written record indicates no irregularity in the mailing of the Notice of September 4, 2007, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. Since petitioner failed to establish nonreceipt of the Notice of September 4, 2007[1], the petition under 37 CFR 1.182 is **dismissed**.

[1] *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).

On the other hand, the petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540 and (3) a proper statement of unintentional delay. Therefore, the petition under 37 CFR 1.137(b) is **GRANTED**.

As authorized, the $1,540 petition fee has been charged to petitioner's deposit account.

This application file is being referred to Technology Center Art Unit 1618 for review of the amendment submitted with the present petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 10

WOODARD EMHARDT NAUGHTON
MORIARTY AND McNETT
BANK ONE CENTER/TOWER
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 46204-5137

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SEP 2 2 2003

OFFICE OF PETITIONS

In re Application of
Terry A. Beaty et al
Application No. 10/264,890
Filed: October 4, 2002
Attorney Docket No. 7407-432

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 June 5, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed 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(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.

The instant pending application was filed on October 4, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed applications

[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.

has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed applications was submitted during the pendency of the instant nonprovisional application. *See* 35 U.S.C. §§ 120 and 365(c). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application(s). In order for the instant application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. §§ 120 and 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.

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

This application is being forwarded to Technology Center Art Unit 1743 for examination in due course and for processing and consideration by the Examiner of applicant's claim under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (2) for the benefit of priority to the prior-filed applications.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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BANK ONE CENTER/TOWER
SUITE 3700
111 MONUMENT CIRCLE
INDIANAPOLIS IN 46204-5137

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OFFICE OF PETITIONS

In re Application of	:	
Christopher D. Wilsey	:	
Application No. 10/264,891	:	ON PETITION
Filed: October 4, 2002	:	
Attorney Docket No. 7404-431	:	

This is a decision on the petition, filed March 23, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 8, 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 1753 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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Philips Electronics North American Corp
580 White Plains Rd.
Tarrytown, NY 10591

DEC 21 2005

In re Application of:	:	
Philip Rutter et al.	:	DECISION ON PETITION
Serial No.: 10/264,895	:	TO WITHDRAW THE
Filed: October 4, 2002	:	HOLDING OF ABANDONMENT
Attorney Docket No.: GB010175	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181 filed on June 7, 2004. There is no fee for this petition.

The petition is **GRANTED**.

This application became abandoned for failure to respond to the Office action mailed on October 23, 2003. Although petitioner indicates that the Office action was a Notice of Allowance, it was actually a non-final rejection. A Notice of Abandonment was mailed on May 18, 2004.

Petitioner asserts that the Office action of October 23, 2003 was not received. The petition provides the required showing under MPEP § 711.03(c) to establish nonreceipt of an Office action. It includes a statement from the practitioner stating that the Office action was not received and states that a search of the file jacket and docket records indicates that the Office action was not received. It also includes a copy of the docket record where the nonreceived Office action would have been entered had the Office action been received. The evidence is sufficient to establish that the Office action of October 23, 2003 was not received.

Accordingly, the Notice of Abandonment mailed May 18, 2004 is hereby **VACATED** and the holding of abandonment is withdrawn.

The Office action of October 23, 2003 will be remailed starting a new three month shortened statutory period for response as of the date of the remailing.

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

James Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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OFFICE OF PETITIONS

In re Application of	:
Richard J. Houldsworth	: DECISION GRANTING PETITION
Application No. 10/264,904	: AND WITHDRAWING THE
Filed: October 4, 2002	: HOLDING OF ABANDONMENT
Attorney Docket No. PHB 34,330A	:

This is a decision on the paper titled "PETITION TO RETRIEVE", filed May 2, 2006, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

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 non-final Office action mailed June 16, 2005. This Office action set a shortened statutory period for reply of three (3) months. No response having been received, the above-identified application became abandoned on September 17, 2005. The mailing of this decision precedes the mailing of a Notice of Abandonment.

Petitioner asserts that he did file a timely response. In support thereof, petitioner has submitted a copy of the response, together with a postcard receipt directed to the above application, itemizing a "Amendment", and bearing a USPTO date stamp dated September 16, 2005. However, the Amendment was directed to parent application No. 09/533,485, not 10/264,904.

As set forth in the Manual of Patent Examining Procedure § 724.05:

> Where the Office can determine the correct application file that the papers were actually intended for, based on identifying information in the heading of the papers (e.g. **application number, filing date, title of invention and inventor(s) name(s)**), the Office will transfer the papers to the correct application file for which they were intended without the need of a petition.

Here, the Amendment contained the incorrect application number. However, all the other identifying information was correct, including the filing date and the attorney docket number. It should have been obvious that the Amendment was directed to application No. 10/264,904 and not parent application No. 09/533,485, especially since application No. 09/533,485 had already issued into Patent No. 6,487,563 on November 26, 2002. Accordingly, it is concluded that the Office could have determined the correct application file for which the response was intended.

The matter is being forwarded to Group Art Unit 2613 for consideration of the Amendment filed September 16, 2005 (copy re-supplied with the petition filed May 2, 2006).

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

Cliff Congo
Petitions Attorney
Office of Petitions

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Paper No. 4

Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

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Technology Center 2100

In re Application of:
Peter SZOR
Application No. 10/264,922
Filed: October 4, 2002
For: HEURISTIC DETECTION OF MALICIOUS COMPUTER CODE BY PAGE TRACKING

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed June 3, 2004.

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

The request is **GRANTED.**

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

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

cc: Edward J. Radlo
Sonnenschein Nath & Rosenthal LLP
685 Market Street
6th Floor
San Francisco, CA 94105

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OCT 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Sidlgata V. Sreenivasan, et al.	:	
Application No. 10/264,926	:	ON PETITION
Filed: October 4, 2002	:	
Attorney Docket No. MII-04-04-02	:	

This is a decision on the petition, filed June 19, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed July 7, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on September 8, 2006. *See* MPEP 1215.04.

The present petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Appeal Brief and requisite fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 1732.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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DEC 2 2 2004

OFFICE OF PETITIONS

In re Application of Langdo et al. Application No. 10/264,935 Filed: October 4, 2002 Attorney Docket No. ASC-008	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed October 25, 2004, to change the order of the names of the inventors.

The petition is **GRANTED**.

The order of the names of the inventors will be changed as follows:

1. Thomas A. Langdo
2. Matthew T. Currie
3. Richard Hammond
4. Anthony J. Lochtefeld
5. Eugene A. Fitzgerald

This matter is now being referred to Technology Center 2800 to await a response to the final Office action mailed on October 7, 2004.

Telephone inquiries should be directed to Paralegal Liana Chase at (571) 272-3282.

Frances Hicks

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

Enclosure: Corrected Filing Receipt

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LOCKE LIDDELL & SAPP LLP
ATTN. DOCKETING
600 TRAVIS #3400
HOUSTON, TX 77002

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OFFICE OF PETITIONS

In re Application of :
Cynthia C. Jara-Almonte et al :
Application No. 10/264,954 : ON PETITION
Filed: October 4, 2002 :
Attorney Docket No. 021902-102US :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed July 27, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 28, 2005.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on April 13, 2006.

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

This matters is being referred to Technology Center AU 3725 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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The Law Offices of James C. Weseman
Suite 1600
401 West A Street
San Diego, CA 92101

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MAR 2 2 2007

OFFICE OF PETITIONS

In re Application of

Weng, et al. :

Application No. 10/264,979

: DECISION ON PETITION

Filed: October 4, 2002

:

Attorney Docket No. P00203US1

This is a decision on the petition under 37 CFR 1.137(b), filed December 8, 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 election/restriction requirement mailed November 13, 2005, which set a shortened period for reply of one (1) month 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 December 13, 2005. A Notice of Abandonment was mailed on July 21, 2006.

The election filed December 8, 2006 is noted.

The "Appointment of Associate Attorney", filed November 1, 2006, and the request to change the correspondence address of record, filed December 8, 2006, are noted but cannot be entered. Section 402.02 of the *Manual of Patent Examining Procedure* provides that, "[e]ffective June 25, 2004, the associate a power of attorney practice has been eliminated. . . . An appointment of an associate power of attorney filed on, or after, June 25, 2004, will not be accepted." Accordingly, neither the "Appointment of Associate Attorney" nor the request to change the correspondence address of record will be entered.

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.

The application is being forwarded to Technology Center 1600, GAU 1651 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Cc:
Lisa A. Haile, J.D., Ph.D
DLA Piper US LLP
4365 Executive Drive, Suite 1100
San Diego, CA 92121-2133

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Nelson Mullins Riley & Scarborough, LLP
1320 Main Street, 17th Floor
Columbia, SC 29201

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OCT 1 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Hsu et al.	:	REQUEST FOR CORRECTED
Application No. 10/264,983	:	FILING RECEIPT
Filed: October 4, 2002	:	
Attorney Docket No. 17420/09004-CIP	:	

This is a decision on the "Petition to Correct Filing Receipt," filed April 14, 2005, which is being treated as a petition under 37 CFR 1.181, requesting a corrected filing receipt to reflect the claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional Application No. 10/263,210, filed October 1, 2002.

A review of the record indicates that on January 16, 2003, applicant filed a preliminary amendment to the first sentence of the specification following the title, which contained a reference to the prior-filed nonprovisional Application No. 10/263,210, as required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i). Furthermore, applicant submitted this reference during the pendency of the present application and within four months from its actual filing date, *i.e.* October 4, 2002. *See* 37 CFR 1.78(a)(2)(ii). Unfortunately, due to an oversight, the USPTO did not note the claim for priority to the prior-filed nonprovisional Application No. 10/263,210.

Accordingly, the petition is **granted**. A corrected filing receipt, reflecting the claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional Application No. 10/263,210, filed October 1, 2002, accompanies this decision.

The $130.00 fee for the filing of the present petition is unnecessary and will be refunded to Deposit Account No. 50-1196.

Any questions 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

Attachment: Corrected Filing Receipt

SPE: O'Shea, S.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/16/07

TO SPE OF : ART UNIT 2875

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/264,993 Patent No.: 6860616

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800

Sandra O'Shea

SPE **Art Unit**

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QUEEN ANNETTE SIMS
835 CROCKETT PL.
MEMPHIS TN 38107

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DEC 17 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Queen Annette Sims
Application No. 10/265,003
Filed: April 10, 2003
Title of Invention:
BIRD'S NESTING BOX

This is a decision on the document entitled "Petition to Revive or Withdraw For Notice of Abandonment", filed December 7, 2004, to revive the above identified application.

The petition is **DISMISSED**.

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

This application became abandoned April 26, 2004 for failure to file a timely response to the non-Final Office Action mailed January 23, 2004, which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed September 21, 2004.

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)).

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

(1) The required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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 § 1.17(m);

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

(4) Any terminal disclaimer (and fee as set forth in 37 CFR § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

Petitioner has not stated whether the basis for the delay in responding to the non-Final Office Action in a timely manner was unavoidable or unintentional and thus will have to file a renewed petition, with the appropriate fees and showings, under either or both of those standards of review. As a result, this petition cannot be considered on the merits.

Petitioner is advised that the petition fees for revival under 37 CFR 1.137(a) for a small entity are $55 and $110 for a large entity. For revival under 37 CFR 1.137(b), the fees are set at $685 for a small entity and $1370 for a large entity. The fees due are the fees set at the time the application file is revived.

Since, it appears that it is petitioner's intention to have this petition considered in the alternative and since a petition to withdraw the holding of abandonment does not require a petition fee be paid, the petition will be forwarded to Technology Center 3644 for consideration uner 37 CFR 1.181 and not decided in the Office of Petitions under 37 CFR 1.137.

In view thereof, a petition properly stating a claim for which relief can be granted and the appropriate petition fee is due before a petition to revive on the merits can be addressed and granted. The application will therefore remain in an abandoned status until such time as the a petition and petition fee has been submitted or until such time as the abandonment has been withdrawn by the Technology Center.

Blank unavoidable and unintentional petition forms have been provided for your convenience.

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

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

By FAX: (703)872-9306

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Attachment: Blank petition forms

UNITED STATES PATENT AND TRADEMARK OFFICE

MAR 2 5 2005

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

MAILED

MAR 2 5 2005

OFFICE OF THE DIRECTOR
TC 3600

Queen Annette Sims
835 Crockett Pl.
Memphis, TN 38107

In re Application of
Queen Annette Sims
Application No. 10/265,003
Filed: April 10, 2003
For: BIRD NESTING BOX

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on December 7, 2004.

The petition is **DENIED**.

A review of the file record reveals that a response to the non-Final Office action of January 23, 2004 was filed with the Office on May 6, 2004. This response was 1-month late and required a 1-month extension of time fee. Applicant never paid the 1-month extension of time fee. Unfortunately, in the instant case, without payment of the 1-month extension of time fee the case was Properly abandoned and a notice to that effect was mailed on September 21, 2004.

Applicant's petition, and evidence submitted, is insufficient to withdraw the holding of abandonment. In this regard, while it is unfortunate and regrettable that applicant could have extended the time period for up to six-months by paying the necessary fees no such action or authorization by applicant was provided to the office.

Thus, there is no Office error and the application is properly abandoned.

Applicants may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37

CFR 1.17(l); and (3) an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply

from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition fee required by law for filing a petition under unavoidable standard is $500. The fee for a petition under the unintentional standard is $1,500. If applicants have, or can qualify as a "small entity" and does so prior to or together with the payment of the fee; the fee will be one-half of the amount indicated.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive. The required items should be promptly submitted under a cover letter entitled "Petition to Revive."

Further correspondence with respect to a petition to revive should be addressed as follows:

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

By hand: 2011 South Clark Place
Crystal Plaza Two, Lobby
Room 1B03
Arlington, VA 22202

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

Telephone inquiries should be directed to the Office of Petitions Staff at (571) 272-3282.

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

KJD/jwk: 3/9/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CROMPTON SEAGER AND TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

COPY MAILED

MAY 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Ostroff	:	DECISION ON APPLICATION
Application No. 10/265,005	:	FOR PATENT TERM ADJUSTMENT
Filed: October 4, 2002	:	
Atty. Dkt. No.: 4441-0039	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed March 15, 2006. This matter is being properly treated under 37 CFR 1.705(b) as an application for patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application, mailed December 15, 2005, indicated that the PTA to date is 513 days. The instant application for patent term adjustment and issue fee payment were timely filed March 15, 2006.

The correct PTA at the time of allowance is 614 days. The Office will adjust the PAIR screen to reflect that the PTA determination at the time of mailing of the instant letter reflects an adjustment of 614 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicant argues that the correct PTA at the time of allowance is 614 and further argue that at the time of allowance, there was no failure to engage in reasonable efforts to conclude prosecution.

A review of the application history reveals that as of the time of allowance, an adjustment of 614 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1).

The adjustment of 614 days was errantly reduced 101 days in connection with applicant's reply to the Notice to File Missing Parts (Notice) mailed November 1, 2002. A response to the Notice was received May 13, 2003. However, this response was merely a copy of the original response to the Notice received by the Office on November 18, 2002, as evidenced by the postcard date stamped by the Office on November 18, 2002.

In view thereof, at the time of allowance, the application is entitled to an adjustment of 614 days, as argued by applicant.

The Office hereby acknowledges receipt of the required Patent Term Adjustment application fee of $200.00.

The application is being forwarded to the Office of Patent Publication for issuance of a patent.

Applicant is advised that the patent term adjustment indicated therein will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculation

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Oct. 4, 2005

TO SPE OF : ART UNIT 2632 (*T. Pham*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,919,804

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. Your denial or approval decision is needed below.

sp STM

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:

ok for all changes

SPE — 2632 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

WEYERHAEUSER COMPANY
INTELLECTUAL PROPERTY DEPT.,
CH 1J27, P.O. BOX 9777
FEDERAL WAY, WA 98063

In re Application of	:	
Mark T. Churchland et al	:	
Application No. 10/265,041	:	ON PETITION
Filed: October 3, 2002	:	
Attorney Docket No. 24828	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed February 22, 2005, which set a statutory period for reply of three (3) months.

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

This matter is being referred to Patent Publication.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APR 28 2005

In re Application of Scott Buesching et al. Serial No. 10/265,053 Filed: October 4, 2002 For: CONTAINER AND METHOD FOR PRODUCING THE SAME	DECISION ON PETITION TO WITHDRAW AS ATTORNEY

By papers filed on February 25, 2005, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the new correspondence address for this application is:

Cool Cloth, LLC
3145 Copper Avenue
Fenton, MI 48430

Donna Magaha
Office of the Director
Technology Center 3700

Matthew M. Jakubowski
Brooks & Kushman, PC
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238

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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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

MAR 29 2010

OFFICE OF PETITIONS

In re Patent No. 7,196,660 :
Issue Date: March 27, 2007 :
Application No. 10/265,090 : NOTICE
Filed: October 4, 2002 :
Attorney Docket No. 18926US01 :

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAR 3 1 2008

OFFICE OF PETITIONS

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of :
Colosimo et al. :
Application No. 10/265,097 : DECISION ON PETITION
Filed: September 25, 2002 :
Attorney Docket No. 540-360 :

This is a decision on the petition, filed October 5, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Restriction Requirement of December 9, 2004, which set a six (6) month shortened statutory period for reply. A reply was due on or before June 9, 2005.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard, which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on June 9, 2005 of, *inter alia,* response to the restriction requirement. A copy of the previously submitted reply accompanies the petition.

The response to the restriction acknowledged as having been received in the USPTO on June 9, 2005 is not of record in the application file and has not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the response to the restriction requirement was timely received in the USPTO.

A review of the record shows that the response to the restriction requirement has been located.

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

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on June 9, 2005.

This application is being referred to Technology Center AU 3643 for appropriate action in the normal course of business on the reply received.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PHILIP T. SHANNON
EDWARDS, ANGELL, PALMER & DODGE LLP
750 LEXINGTON AVENUE
NEW YORK NY 10022

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APR 06 2009

OFFICE OF PETITIONS

In re Application of
Dipl-Ing Hermann Painsith
Application No. 10/265,103
Filed: October 7, 2002
Attorney Docket No. 7594-483-999

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment, filed March 19, 2009 under 37 CFR 1.181.

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

The application was held abandoned on October 20, 2008 for failure to file a timely response to the Final Office Action mailed July 17, 2008, which set a three (3) month shortened period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed January 22, 2009.

Petitioners argue that a Request For Continued Examination (RCE) was filed on January 19, 2009 by way of EFS with an extension of time request and provides a copy of the response said to have been filed and a copy of the EFS Acknowledgment Receipt, as proof of the timely filed response.

A search of the application file and the USPTO records reveals that in fact, an RCE and amendment as the submission under 37 CFR 1.114 with a three month extension of time, extending the response date to January 17, 2009 was filed on January 17, 2009. In view thereof, the response was timely and the Notice of Abandonment mailed January 22, 2009 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 3728 for processing the RCE filed January 17, 2009.

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

Paper No. 8

JOE NIEH
18760 E. AMAR ROAD #204
WALNUT, CA 91789

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APR 15 2005

OFFICE OF PETITIONS

In re Application of :
Frank Sun :
Application No. 10/265,126 : ON PETITION
Filed: October 4, 2002 :
Attorney Docket No. None :

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Clement Cheng 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. However, if Mr. Cheng 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.

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 January 16, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed on August 23, 2004. On January 18, 2005, an amendment and the present petition were filed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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 3679 for consideration of the amendment filed January 18, 2005.

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

cc: CLEMENT CHENG
17220 NEWHOPE STREET #127
FOUNTAIN VALLEY, CA 92708

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ERNEST D. BUFF
ERNEST D. BUFF AND ASSOCIATES, LLC.
231 SOMERVILLE ROAD
BEDMINSTER NJ 07921

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OCT 1 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Tyren et al.	:	
Application No. 10/265,136	:	ON PETITION
Filed: October 7, 2002	:	
Attorney Docket No. 0120-68.10	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 12, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed October 3, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on January 4, 2004. A Notice of Abandonment was mailed May 10, 2004.

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

The file is being forwarded to Technology Center 2600 for further examination on the merits.

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

Liana Chase
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/06/06

TO SPE OF : ART UNIT **2872**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/265165 6967772

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

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:

_____

_____

_____

_____

_____

DREW A. DUNN
SUPERVISORY PATENT EXAMINER

SPE — **Art Unit** 2872

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

NIXON PEABODY LLP
401 Ninth Street, N.W.
Suite 900
WASHINGTON, DC 20004

Mail Date: 04/26/2010

Applicant	: Timothy A. Musgrove	: DECISION ON REQUEST FOR
Patent Number	: 7627486	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/265,189	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/07/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2088** 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

GOWLING LAFLEUR HENDERSON LLP
1 FIRST CANADIAN PLACE, SUITE 1600
100 KING STREET WEST
TORONTO ON M5X 1G5 CA CANADA

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OFFICE OF PETITIONS

In re Application of	:	
Moldoveanu, Calin	:	
Application No. 10/265,192	:	DECISION ON PETITION
Filed: October 7, 2002	:	
Attorney Docket No. T8465714US	:	

This is a decision on the petition, filed July 13, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply in a timely manner to the Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed September 8, 2005, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 9, 2005. A Notice of Abandonment was mailed March 30, 2006.

Petitioner asserts that the Office action dated September 8, 2005, 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 non-received Office action would have been entered had it been received 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.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2817 for re-mailing the Office action of September 8, 2005. The period for reply will run from the mailing date of the Office action.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APR 23 2009

OFFICE OF PETITIONS

PILLSBURY WINTHROP SHAW PITTMAN LLP
PO BOX 10500
MCLEAN VA 22102

In re Application of	:	
Ashvin H. Desai	:	
Application No. 10/265,209	:	ON PETITION
Filed: October 4, 2002	:	
Attorney Docket No. 087001-0273381	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed March 30, 2009.

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

The above-identified application became abandoned for failure to timely file a reply in response to the Office action mailed June 9, 2008. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on September 10, 2008. The Office mailed a Notice of Abandonment on December 16, 2008.

With the instant petition, petitioner made the proper statement of unintentional delay, paid the petition fee, and submitted the required reply in the form of an Election.
petitioner must notify the Office.

The application is being forwarded to Group Art Unit 3737 for consideration of the Election filed March 30, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Paper No.

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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MAR 19 2008

OFFICE OF PETITIONS

In re Patent No. 7,171,727 :
Wylie et al. :
Issue Date: February 6, 2007 :
Application No. 10/265,219 : LETTER REGARDING
Filed: October 4, 2002 : PATENT TERM ADJUSTMENT
Attorney Docket No. 023015-0306 :
Title: METHOD AND APPARATUS FOR :
APPLIANCE CONTROL AND STATUS :
DISPLAY :

This is a decision on the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed December 7, 2006. Patentees request that the patent term adjustment indicated on the Notice of Allowance and Issue Fee Due be corrected from three hundred and seventy-two (372) days. Petitioner has not set forth what length of term he believes to be correct, and merely requests that this period of time "may be incorrect."

The request for reconsideration of the patent term adjustment is **GRANTED to the extent indicated herein**.

For the reasons stated herein, it is concluded that the patent issued with the correct revised Patent Term Adjustment.

On February 6, 2007, the above-identified application matured into U.S. Patent No. 7,171,727, with a revised Patent Term Adjustment of 432 days.

Pursuant to 37 C.F.R. § 1.702(a)(1), the Office is required to mail at least one of a notification under 35 U.S.C. § 132 or a notice of allowance under 35 U.S.C. § 151 not later than fourteen months after the date on which the application was

filed under 35 U.S.C. § 111(a). The application was filed on October 4, 2002, and the Office mailed a non-final action on October 3, 2005, which is fourteen months and 20 days after the filing of the application. See 37 C.F.R. § 1.703(a)(1).

Pursuant to 37 C.F.R. § 1.702(a)(2), the Office is required to respond to an appeal taken under 35 U.S.C. § 134 not later than four months after the date on which the appeal was taken. An appeal brief was filed on November 12, 2004, and an Examiner's Answer was not mailed until March 17, 2005, which is four months and 5 days after the receipt of the appeal brief. See 37 C.F.R. § 1.703(a)(4).

The record reflects 382 days of Office delay for failing to timely respond to a reply brief to an Examiner's Answer. Pursuant to 37 C.F.R. § 1.702(a)(2), the Office is required to respond to a reply brief to an Examiner's Answer not later than four months after the date on which the reply brief to an Examiner's Answer was filed. Petitioner filed a reply brief to an Examiner's Answer on May 17, 2005, and the Office mailed a communication regarding this submission within four months on July 27, 2005. Therefore, the entry of 382 days of Office delay was made in error and is being removed.

Accordingly, there were 25 days of PTO delay (20 + 5) on the two bases noted above.

Moreover, pursuant to 37 C.F.R. § 1.702(b), the Office is required to *issue a patent within three years of the actual filing date of the application*. The application was filed on October 4, 2002, and the patent did not issue until February 6, 2007, which is 3 years and **490** days after its filing date. However, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b) (1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). In this instance, the period of delay of 490 days

attributable to the delay in the issuance of the patent overlaps with the adjustment of 25 days attributable to grounds specified in § 1.702(a)(1), and (2).

Thus, at issuance, only an additional period of adjustment of 465 days (rather than 83 days) should have been entered for a total of 490 days for Office delay.

With respect to applicant delay, pursuant to 37 C.F.R. § 1.704(b), the failure to reply to an Office action within three months is a failure to engage in reasonable efforts to conclude prosecution. The non-final action was mailed on December 24, 2003, and a response was not filed until April 28, 2004, which constitutes is three months and 35 days after the mailing of the Office action.

Additionally, pursuant to 37 C.F.R. § 1.704(c)(10), the submission of an amendment under § 1.312 after a notice of allowance has been mailed is a failure to engage in reasonable efforts to conclude prosecution. The after-final amendment was received on December 7, 2006, and a response was mailed by the Office on December 29, 2006, which constitutes a delay of 23 days.

Thus, the proper period of reduction is 58 (35 + 23) days.

In view thereof, the patent properly issued with a revised patent term adjustment of 432 days (490 days of Office delay reduced by 58 days of applicant delay).

To the extent that this letter was submitted as an advisement to the Office of an error in Patentees' favor, the Office will not assess the $200.00 fee under 37 C.F.R. § 1.18(e). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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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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LEONG C. LEI
PMB # 1008
1867 YGNACIO VALLEY ROAD
WALNUT CREEK CA 94598

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DEC 13 2006

OFFICE OF PETITIONS

In re Application of	:	
Jui Wen Chen	:	
Application No. 10/265,241	:	DECISION GRANTING PETITION
Filed: October 7, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. FP8982	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 2, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the New Abstract/New Claims; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Corrected Application Papers of November 5, 2002, 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 the Office of Initial Patent Examination.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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JUN 02 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

McCARTHY TETRAULT LLP
TORONTO DOMINION BANK TOWER
P.O. BOX 48, SUITE 4700
TORONTO, ONTARIO M5K 1E6

In re Application of Joseph R. Pacione Application No. 10/265,247 Filed: October 7, 2002 For: ANCHOR SHEET AND ANCHOR SHEET MODULE	DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on April 13, 2004.

The petition is **DISMISSED.**

A review of the file record reveals that a Notice of Allowability and Notice of Allowance and Issue Fees Due (hereinafter "Office action") were mailed to applicant on August 5, 2003. Since the issue fee was not received before the expiration of the three month statutory period for reply, the application was held abandoned, and a Notice to that effect was mailed on January 21, 2004.

There is a strong presumption that Office communications properly addressed and delivered to the United States Postal Services, are in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include **a copy of the list of all responses in the practitioner's office with the due date of November 5, 2003**. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

The petitioner has failed to comply with requirement (3) indicated above.

Although a copy of a docket record where the non-received Office action would have been entered as being due was also submitted, it is unclear whether the docket provided is the attorney's personal docket or the master docket of the law firm at attorney's previous office location. Applicant is requested to provide a copy of the master docket of the law firm at the previous address for responses with a due date on or around November 5, 2003.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

RAR/mjz: 5/3/04

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

McCarthy Tetrault LLP
Suite 4900, P.O. Box 48
66 Wellington St. West
Toronto, ON
M5K 1E6
Canada

In re Application of Joseph R. Pacione Application No. 10/265,247 Filed: October 7, 2002 For: ANCHOR SHEET AND ANCHOR SHEET MODULE	:	DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the applicant's renewed petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on July 8, 2004.

The petition is **GRANTED**.

A review of the file record reveals that a Notice of Allowability and Notice of Allowance and Issue Fee Due (hereinafter "Notices"), setting a three month time period for reply, were mailed to applicant on August 5,2003. Since a response to these Notices was not received, the application was held abandoned, and a Notice to that effect was mailed on January 21, 2004.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of November 5, 2003. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G.53 (November 16, 1993). The petition filed April 13, 2004 failed to meet requirement (3) above.

Applicant's renewed petition provides a copy of the docket record showing all actions due by practitioner's office at and around the due date of November 5, 2003. Applicant's renewed petition further provides a statement that the docket is the master docket of the law firm and not the attorney's personal docket. This evidence is acceptable proof of non-receipt as provided by 1156 OG 53.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment, return the application to pending status and to redate and remail the Notice of Allowability and Notice of Allowance and Issue Fees Due of August 5, 2003 based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.

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

KJD/vdb: 5/27/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 15 2004

Office of the Director
Group 2600

Mr. Robert Pap
Accurate Automation Corp.
7001 Shallowford Road
Chattanooga, TN 37421

In re application of
Richard E. Saeks et al.
Application No. 10/265,265
Filed: October 7, 2002
For: SHOCK WAVE MODIFICATION VIA SHOCK INDUCED ION DOPING

This is in response to the letter received November 12, 2003 from Janet C. Donovan, IP Manager for Accurate Automation Corporation. The letter makes reference to a Petition for Withdrawal of Attorney filed on March 12, 2003 by Eric P. Schellin, attorney of record. A Notice in response to the petition was mailed on May 22, 2003 denying approval of the request.

Since the letter filed November 12, 2003 does not include a statement under 37 CFR 3.73(b) (e.g., a copy of an executed assignment) providing documentary evidence of a chain of title from the original owners to the assignee or a statement specifying where this evidence is recorded in the Office (e.g., reel and frame number), Janet C. Donovan lacks the authority to take action in this application.

However, upon further consideration of Mr. Schellin's request to withdraw as attorney of record, the request is **APPROVED**.

Mr. Schellin's statement that "The undersigned is planning to close his office" is deemed sufficient reason to withdraw under 37 CFR 10.40(c)(6).

The correspondence address has been changed to the address noted above as per Mr. Schellin's request.

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

RAR/mjz: 6/7/04

cc: Eric P. Schellin
2121 Crystal Drive, Suite 704
Arlington, VA 22202

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 5

ASHEN & LIPPMAN
4385 OCEAN VIEW BOULEVARD
MONTROSE, CA 91020

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JUL 01 2004
OFFICE OF PETITIONS

In re Application of	:	
Kane, et al.	:	
Application No. 10/265,277	:	ON PETITION
Filed: October 4, 2002	:	
Attorney Docket No.: xAA-19	:	

This decision is in response to the petition under 37 C.F.R. § 1.137(b) filed June 14, 2004.

The petition is GRANTED.

This application became abandoned January 22, 2003 for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application mailed November 21, 2002. The Notice set a two month shortened statutory period of time for reply. No petition for an extension of time was granted. Notice of Abandonment was mailed January 27, 2004.

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

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely reply to the Notice is accepted as having been unintentionally delayed[1].

[1] As to petitioners' contention that a response to the Notice was timely submitted March 21, 2003, petitions are advised that at the time of submission of the response, deposit account No. 12-1639 lacked sufficient funds to cover the cost of the required fees.

The following required fees have been charged to deposit account No. 12-1639: $665.00 petition fee; $65.00 surcharge for late submission of declaration; and $385.00 small entity filing fee.

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

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

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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BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE, SUITE 200
EAST PALO ALTO CA 94303

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MAR 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Brent R. **CONSTANTZ**	:	
Application No. 10/265,286	:	DECISION ON PETITION
Filed: October 4, 2002	:	TO WITHDRAW
Attorney Docket No. CORA-013	:	FROM RECORD
	:	

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

The request is **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 Bret E. Field on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence 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 the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BRENT R. CONSTANTZ**
10201 BUBB ROAD
CUPERTINO, CA 95014

cc: **CARL J. EVENS**
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 8

MILES & STOCKBRIDGE P.C.
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

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JUN 1 5 2004

OFFICE OF PETITIONS

In re Application of
Rauch
Application No. 10/265,287
Filed: October 4, 2002
Attorney Docket No. T3670-8901US01

ON PETITION

This decision concerns the April 16, 2004 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

The application became abandoned on January 2, 2003 for failure to timely submit the basic filing fee as required by the November 1, 2002 "Notice to File Missing Parts of Nonprovisional Application."

A grantable petition under 37 CFR 1.137(b), in the instant case, must be accompanied by: (1) the $385 basic filing fee[1] and the $65 surcharge for late filing of the fee, both in small entity amounts; (2) the $665 petition fee (small entity); and (3) a statement that the entire delay in remitting the fee from the due date until the filing of a grantable §1.137(b) petition was unintentional. The instant petition meets the above requirements and is thus granted.

The new power of attorney and the new correspondence address have been entered and made of record.

The file is being forwarded to Technology Center 3700 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

Attachments:
Notice Regarding Change of Power of Attorney (revoking prior powers of attorney)
Notice of Acceptance of Power of Attorney (accepting 4/16/04 Power of Attorney)

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[1] The fee amount increased to $385 effective 10/1/03. The petition encloses a $370 payment. The $15 deficiency has been charged to Deposit Account No. 50-1165 as authorized.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARSH FISCHMANN & BREYFOGLE LLP

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

Paper No. 3

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BREYFOGLE LLP
3151 SOUTH VAUGHN WAY, SUITE 411
AURORA, CO 80014

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FEB 1 1 2003

OFFICE OF PETITIONS

In re Application of
Atanassova et al.
Application No. 60/338,797
Filed: November 2, 2001
Attorney Docket No. 41890-01587

OIPE JC156
NOV 2 4 2003
TRADEMARK OFFICE

ON PETITION

This decision concerns the November 25, 2002 petition, requesting that the above-identified provisional application be accorded a filing date of November 2, 2001 rather than the presently accorded filing date of November 22, 2001. This petition is being properly treated as a petition under 37 CFR 1.10(c).[1]

The petition is **GRANTED**.

Petitioners request an earlier filing date of November 2, 2001 on the basis that the application was deposited on that day in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" service pursuant to the requirements of 37 CFR 1.10.[2] The petition is accompanied by a copy of the "Express Mail" mailing label indicating a November 2, 2001 "date-in" and bearing the number "EL 702178495 US."[3] **The same number also appears on the "Certificate of Mailing by Express Mail"** mailed with the original provisional application, **but not on the provisional application papers or cover sheet. In addition, the provisional application was filed without a transmittal form.**[4]

For the instant case, one of the conditions, under 37 CFR 1.10(c), for the Commissioner to accord the provisional application the "11/2/01" filing date [i.e., the "date-in" on the "Express Mail" mailing label] is that **the mailing label number** "EL 702178495 US" **was placed on the**

---

[1] Under 37 CFR 1.10(c), any person filing correspondence that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, may petition the Commissioner if there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation; see also MPEP section 513 (Aug. 2001).

[2] 37 CFR 1.6(a) (Correspondence received in the USPTO is stamped with the date of receipt except . . . (2) Correspondence filed in accordance with §1.10 will be stamped with the date of deposit as "Express Mail" with the USPS).

[3] The written "date-in" [11/02/01] looks like "11/22/01." However, the mailing label also contains a USPS date-stamp of "Nov. 2, 2001." In addition, according to the official USPS website, "Track & Confirm," this mailing was accepted by the USPS on 11/2/01 at 5:07pm. See *infra* note 5, 1st sentence.

[4] Had there been a transmittal form, merely placing the "Express Mail" mailing label number in one prominent location on such a transmittal would have sufficed. See MPEP section 513 (Aug. 2001).

provisional application papers prior to the mailing by "Express Mail." This condition was not met. However, the "Certificate of Mailing by Express Mail" identifies the invention title and the attorney docket number, and **was stapled to this provisional application when filed**. The petition is thus granted.[5]

No fee is owed. The $130 petition fee has been credited to Deposit Account No. 50-1419 as authorized in the petition.

The provisional application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 2, 2001, and for issuance of a corrected filing receipt reflecting that filing date. Thereafter, the application file will be returned to Files Repository.

Telephone inquiries should be directed to Petitions Attorney RC Tang at (703) 308-0763.

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions

RC Tang
Petitions Attorney
Office of Petitions

---

[5] **In short of this, the "Express Mail" mailing label "date-in" in conjunction with the USPS official website merely shows that counsel mailed something to the PTO on 11/2/01, but does not link the "11/2/01 date-in" to this provisional application.** See MPEP section 513 "EXPRESS MAIL" MAILING LABEL NUMBER (Aug. 2001) ([I]f the number of the mailing label did not appear on the correspondence as originally filed, relief will not be granted on petition under 37 CFR 1.10(c)-(e), even if the party . . . satisfies the other requirements of 37 CFR 1.10(c)-(e). **To be effective, the number must be placed** on each separate paper and each fee transmittal **either directly on the document or by a separate paper firmly and securely attached thereto**.). (emphasis added)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. :6,951,666
Inventor(s) :Kodas et al.
Issued :October 4, 2005
Doc/.File No. :41890-01639
Re: Request for Certificate of Correction

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

An error on a patent can be corrected by a certificate of correction, if appropriate. Accordingly, a petition under C.F.R. 1.182 is required to correct the alleged error concerning the inventor's address since this information is printed solely in accordance with the typewritten information provided on the Declaration, Oath or ADS, and since the error was the result of applicant's failure to comply with the requirement that the complete and correct information be provided, no correction is in order here under the provisions of Rules 1.322 or 1.323, unless a petition is granted.

Any petition under 37 CFR 1.182 should be directed to the attention of the Assistant Commissioner for Patents using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
Box PETITIONS
Washington, D.C. 20231

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

If the petition under 37 CFR 1.182 is filed and granted the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100).

Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Cecelia B. Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 Ext. 123

David F. Dockery, Esq
Marsh, Fischmann & Breyfogle LLP
3151 South Vaughn Way, Ste 411
Aurora, Colorado 80014

CBN/arg

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Paper No. 031505

APR - 5 2005

SWANSON & BRATSCHUN LLC
1745 SHEA CENTER DRIVE
SUITE 330
HIGHLANDS RANCH, CO 80129

In re Application of:	:	
NORTON *et al.*	:	
Serial No.: 10/265,302	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: October 04, 2002	:	
Attorney Docket No.: **SURR.103**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed February 25, 2005.

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 Darla G. Yoerg, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

All future communications from the Office will be directed to the address associated with customer number 22442, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 5

FLYNN THIEL BOUTELL & TANIS, P.C.
2026 RAMBLING ROAD
KALAMAZOO, MI 49008-1699

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APR 01 2003

OFFICE OF PETITIONS

In re Application of	:	
Akiyama et al.	:	
Application No. 10/265,309	:	DECISION GRANTING
Filed: September 26, 2002	:	PETITION
Attorney Docket No. OPS Case 515A	:	

This is a decision on the petition filed January 21, 2003, to accord the above-identified application a filing date of September 26, 2002.

On September 26, 2002, the application was filed.

On November 20, 2002, the Office of Initial Patent Examination mailed a Notice stating in part that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of drawings.

In response, the present petition was filed alleging that 2 sheets of drawings were deposited on September 26, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "Sheets of Drawings: 2" on September 26, 2002.[1] Petitioner has also submitted a copy of the missing documentation- 2 sheets of drawings.

Upon review of the record, the drawings deposited on September 26, 2002, have not been located. However, the evidence is convincing that the application papers deposited on September 26, 2002, included drawings, and that the drawings were subsequently misplaced in the PTO. Therefore, the application is complete and entitled to a filing date of September 26, 2002.

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

The petition fee of $130 will be credited to petitioner's deposit account.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 26, 2002, using the application papers filed on September 26, 2002, and the copy of 2 sheets of drawings filed on January 21, 2003.

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Randy Shay
P O Box 2607
Fairfax VA 22031

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OCT 2 5 2005

OFFICE OF PETITIONS

In re Application of
Randy A. Bellucci
Application No. 10/265,310
Filed: October 7, 2002
Attorney Docket Number: 01-032
Title: ATHLETIC HYDRATION PACK

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

This is a decision on the petition under 37 CFR §1.137(b)[1], filed October 3, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR §1.112 in a timely manner to the non-final Office action mailed August 12, 2004, which set a shortened statutory period for reply of 3 months. On January 10, 2005, a response was received along with a two-month extension of time, which was not entered, as it was not submitted in the proper format. On February 2, 2005, a Notice of Non-Compliant Amendment was mailed, which set a one-month period for response. On March 14, 2005, a second response was received, along with a partial payment of a one-month extension of time ($55 was submitted, when $60 was due). The response did not contain an authorization to charge a deposit account. On May 10, 2005, Petitioner submitted payment in the amount of $5, but did not submit the requisite two-month extension of time. As such, the above-identified application became abandoned on March 13 2005. A Notice of Abandonment was mailed on August 23, 2005.

With the present petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. The amendment previously submitted on March 14, 2005 shall constitute the required reply.

---

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.

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**.

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.

Petitioner has further requested that the petition fee be refunded. The rules and statutory provisions governing the operations of the US Patent and Trademark Office require payment of a fee on filing each petition[2]. Payment of the $750 petition fee is acknowledged.

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

2 35 USC §41(a)(7).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Feb. 27, 2006

TO SPE OF : ART UNIT 2852 (*Arthur Grimley*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,925,267

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:
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, they are not grammatically correct. 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:

DAVID M. GRAY
SUPERVISORY PATENT EXAMINER

SPE

2852
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Feb. 27, 2006

TO SPE OF : ART UNIT 2852 (*Arthur Grimley*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,925,267

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:
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, they are not grammatically correct. 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:

DAVID M. GRAY
SUPERVISORY PATENT EXAMINER

SPE

2852
Art Unit

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WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

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OFFICE OF PETITIONS

In re Application of	:	
Suzuki et al.	:	DECISION ON PETITION
Application No. 10/265,381	:	TO WITHDRAW HOLDING
Filed: 7 October, 2002	:	OF ABANDONMENT
Atty Docket No. 2002_1311A	:	

This is a decision on the petition to withdraw the holding of abandonment filed on 13 August, 2004.

This application was held abandoned for failure to respond to the Notice to File Missing Parts in a timely manner to the non-final Office action requiring restriction and/or election mailed on 20 November, 2002. A Notice of Abandonment was mailed 4 February, 2004.

Petitioner asserts that a proper reply was timely filed. In support of the petition, petitioner submits a copy of a postcard receipt date-stamped by the USPTO with a date of 2 May, 2003, acknowledging receipt of, *inter alia*, a petition for an extension of time, 32 pages of English translation of the specification, six (6) sheets of drawings and an executed declaration. The postcard identifies the application by applicant's name, application number, filing date, attorney docket number, and invention title. A copy of the Response was included with this petition.

The original correspondence filed was not matched with the file at the time the Notice of Abandonment was mailed and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Office but was not matched with the application file.

For the reasons stated above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

It is noted that the fees were timely applied to applicant's account.

The petition is **GRANTED**.

The application is being forwarded to the Technology Center for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington, DC 20005-1503

Mail Date: 04/20/2010

Applicant	: Naoki Suzuki	: DECISION ON REQUEST FOR
Patent Number	: 7635016	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/265,381	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/07/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **811** 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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

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OFFICE OF PETITIONS

In re Application of :
Abraham Gross et al :
Application No. 10/265,420 : ON PETITION
Filed: October 7, 2002 :
Attorney Docket No. Q71945

This is a decision on the petition filed, March 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 February 28, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1725 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:0504

DATE : March 29, 2005

TO SPE OF : ART UNIT Randy Gulakowski

SUBJECT : Request for Certificate of Correction on Patent No.: 6,800,373

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

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

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

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

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

☐ **Approved** **All** changes apply.

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

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

Comments:

The change to claim 35, line 2, to delete the word "stabilize" is not approved. There is no word "stabilize" in claim 35.

SPE: Randy P. Gulakowski **Art Unit** 1712

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Wan-Ching Wu
235 Chung - Ho
Box 8-24
Taipei TW TAIWAN

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OFFICE OF PETITIONS

In re Application of :
Wu :
Application No. 10/265,463 :
Filed: October 7, 2002 :
Attorney Docket No. L2P2002 :
For: BED WITH FUNCTION OF VENTILATION

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed December 7, 2004. Because petitioner alleges non-receipt, the petition will also be treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

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

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

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the February 11, 2004 Notice of Allowance and Fee(s) Due and for failure to submit corrected formal drawings within three (3) months of the mailing of the February 11, 2004 Notice of Allowability. Accordingly, this application became abandoned on May 12, 2004. The filing of the instant petition precedes the mailing of a Notice of Abandonment.

Petitioner asserts that he did not receive the February 11, 2004 Notice of Allowance and Fee(s) Due. It is assumed that petitioner is alleging non-receipt of the February 11, 2004 Notice of Allowability, as well.

Regarding the petition to withdraw the holding of abandonment under 37 CFR 1.181, the showing required to establish non-receipt of an Office communication must include:

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

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

A review of the record indicates no irregularity in the mailing of the February 11, 2004 Notices, and in the absence of any irregularity there is a strong presumption that the communications were properly mailed to the applicant at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communications were not in fact received.

Petitioner has not proven non-receipt because (1) petitioner did not include a statement that a thorough search of the file jacket and docket records was conducted and (2) petitioner did not include a copy of the docket record where the non-received Office communications would have been entered had they been received and docketed.

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

With respect to the petition under 37 CFR 1.137(b), applicant has submitted (1) a reply in the form of the issue fee, the publication fee, a completed PTOL-85(b), and corrected formal drawings, (2) an acceptable statement of the unintentional nature of the delay in responding to the February 11, 2004 Notices, and (3) the petition fee.

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

This application is being forwarded to Publishing Division for a draftsman's consideration of the corrected formal drawings filed December 7, 2004.

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

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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[1] See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).; MPEP 711.03(c) I A.

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JJGJr: 04-04

Paper No: 13

DAVID W. COLLINS
INTELLECTUAL PROPERTY LAW
SUITE 125B
75 WEST CALLE DE LAS TIENDAS
GREEN VALLEY, AZ 85614

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OFFICE OF PETITIONS

In re Application of	:	
Tosaya, et al.	:	
Application No. 10/265,468	:	ON PETITION
Filed: 3 October, 2002	:	
Attorney Docket No. D-99026A	:	

This is a decision on the petition filed on 8 April, 2004, under 37 C.F.R. §1.53, to obtain a filing date of 3 October, 2003, for the instant application.

The petition is **GRANTED**.

This application was deposited on 3 October, 2003. However, on 5 November, 2003, the Office mailed a "Notice of Incomplete Nonprovisional Application (Filing Date Not Granted)" in this nonprovisional application, stating that the application had not been accorded a filing date of because the papers deposited on 3 October, 2003, did not include, *inter alia*, the specification (description claims and drawing(s)) as required by 35 U.S.C. §112.

In response, Petitioner's office submitted a copy of the specification via FAX on 27 November, 2002, and the Office mailed on 20 December, 2002, a filing receipt specifying a filing date of 27 November, 2002.

On 24 March, 2004, the Office mailed a Response to Request for Corrected Filing Receipt, indicating that:

- "[t]he filing date accorded to the application is the date the application met the filing date requirements of 37 C.F.R. §1.53(b) or (c)"; and

- Petitioner would have to file a petition under 37 C.F.R. §1.53 or §1.182 to seek a change of filing date.

Petitioner filed the instant petition under 37 C.F.R. §1.53 on 8 April, 2004, and submitted therewith, inter alia, copies of the date-stamped receipt card, the one- (1-) page Utility Application Transmittal, and the 5 November, 2003, Office "Notice of Incomplete Nonprovisional Application[.]"

It is noted that the date-stamped receipt card reflecting the deposit of the application on 3 October, 2002, contains a hand notation by the Office in the form of a lining-out of the item that the 24-page specification (with claims and abstract) was missing on deposit.

Analysis

A search of the official file reveals that on 3 October, 2002, the one- (1-) page Utility Patent Application Transmittal which itemized the filing of an application for patent, and states that the application is a:

> Continuing Application (prior application not abandoned) . . . (X) Divisional . . . of prior application No.: 09/348,600 Filed on July 6, 1999[,]"

followed by the statement:

> (X) Incorporation by Reference: The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied, is considered as being part of the disclosure of the accompanying application and is hereby incorporated herein by reference.

Because Petitioner stated on the cover sheet that the entire disclosure of the prior application was incorporated by reference, and Petitioner has included that disclosure, and a statement in the petition attesting thereto, the present petition will be construed as a petition to accept the specification and claims deposited on 27 November, 2002, as a complete copy of the entire disclosure filed with application No. 09/348,600 on 6 July, 1999. **Petitioner must notify the Office if this is not a correct interpretation**.

Because the 8 April, 2004, petition was not due to an error on the part of the Office, the petition fee submitted with it will not be refunded.[1]

The application is being forwarded to the Office of Initial Patent Examination for correction of

[1] Pursuant to Petitioner's authorization, the petition fee ($130.00) is charged to Deposit Account 50-0842.

the filing date to 3 October, 2002. The application will then be forwarded to for examination 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

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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M. Blair Pessemier
28 RUE D' ASSAS
PARIS 75006 FR
FRANCE

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OFFICE OF PETITIONS

In re Application of :
M. Blair Pessemier :
Application No. 10/265,471 :
Filed: October 7, 2002 :
Title of Invention: :
POWER GENERATION DEVICE BASED ON :
ROTATIONAL MOTION DERIVED FROM :
GRAVITATIONAL PULL :

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed February 4, 2005, to revive the above-identified application based upon unavoidable delay. The petition is properly treated as a petition to withdraw the abandonment of the application under 37 CFR 1.181.

The petition is **granted.**

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed April 16, 2004. The Office action set a three (3) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on July 17, 2004. A Notice of Abandonment was mailed on January 18, 2005.

The instant petition

Applicant files this petition and states that the Office "letter [non-final Office action] of the USPTO mailed on 12 April 2004 was sent to an address that was previously changed with the USPTO. As proof of this change, copies of patent documents were sent by the USPTO before the April 12, 2004 date to 28, rue d'Assas." Applicant further asserts that a timely response to the non-final Office action was filed as is evidenced by the cashing of his check filed with the response.

A Review of the file

A review of the file reveals that the application as filed included a Seattle, Washington correspondence address. The non-final Office action was mailed on April 16, 2004, to the Seattle, Washington correspondence address. Thereafter, on May 6, 2004, Applicant filed a Change of Correspondence Address changing the Seattle, Washington address to a Paris, France address. Applicant then filed, on May 24, 2004, correspondence that included a second Change of Correspondence Address; a request for extension of time "to prove a working model"; a letter contesting the Office action, and a specification. This Office timely entered the Change of Correspondence Address, and the Notice of Abandonment, mailed January 18, 2005, was mailed to the Paris, France correspondence address.

Analysis and Conclusion

The review of the file reveals that Applicant timely filed a reply to the non-final Office action April 16, 2004, on May 24, 2004. As such, the holding of abandonment is improper and is hereby withdrawn.

The application file is being referred to Technology Center for consideration of the response filed May 24, 2004, and for continued examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney/Advisor
Office of Petitions

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Commissioner for Patents
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Alexandria, VA 22313-1450
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JUL 20 2004

DCM

In re Application of James C. Barber Serial Number: 10/265, 485 Filed: October 7, 2002 For: A PROCESS FOR UPGRADING RAW PHOSPHATE ORE	: : : : : :	PETITION UNDER M.P.E.P.708.02 IV

This is in response to the petition filed October 7, 2002, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) **(no fee required)**.

The request for Special Status considered under Section 708.02 IV of the MPEP is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

James C. Barber
Suite 115
201 N. Pine St.
Florence AL 35630

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Alexandria, VA 22313-1450
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JAN 27 2005

In re Application of	:	
Ty Spring	:	
Serial No. 10/265,504	:	DECISION ON PETITION
Filed: October 7, 2002	:	TO WITHDRAW AS ATTORNEY
For: FOOTBALL CARD GAME	:	

By papers filed on August 30, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the correspondence address for this application is:

Ty Spring
59 Hampton Link, N.W.
Calgary, Alberta, Canada
T3A 5V9

E.R. Kazenske, Director
Technology Center 3700

Sturm & Fix, LLP
206 Sixth Avenue, #1213
Des Moines, IA 50309-4076

OIPE JC10
JAN 2 6 2004
PATENT & TRADEMARK OFFICE

16/24
3626

PATENTS
Attorney Docket No. V3S/1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPROVED

PATENT APPLICATION

Applicant : Sanford Greenberg

Application No. : 10/265,537 Confirmation No. : 7339

Filed : October 4, 2002

For : SYSTEMS AND METHODS FOR DESIGNING AND DELIVERING A NUTRITIONAL SUPPLEMENT REGIME

RECEIVED
FEB 0 4 2004
GROUP 3600

Group Art Unit : 1614

Examiner : Not yet assigned

New York, New York 10020
January 21, 2004

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

PETITION UNDER 37 C.F.R. §§ 1.36
AND 10.40(c)(1)(vi)
TO WITHDRAW FROM REPRESENTATION

Sir:

Pursuant to 37 C.F.R. §§ 1.36 and 10.40(c)(1)(vi), the undersigned attorney of record hereby petitions on his own behalf and on behalf of each of the other attorneys and agent of record (viz., James F. Haley, Jr., Esq., Reg. No. 27,794, Robert R. Jackson, Esq., Reg. No. 26,183, Jeffrey H. Ingerman,

Esq., Reg. No. 31,069, and Laura A. Sheridan, Reg. No. 48,446) for permission to withdraw from representation of applicant in the above-identified patent application because petitioners' "client has failed to pay one or more bills rendered by the [petitioners] for an unreasonable period of time" (37 C.F.R. § 10.40(c)(1)(vi)).

In particular, applicant has failed to pay the following bills:

Statement Date	Amount Due
10/03/03	$31,251.54
10/29/03	$31,339.04
12/02/03	$31,364.00
12/19/03	$31,893.86

Fish & Neave has contacted VitaCube Systems, Inc. both in writing and telephonically in connection with the current outstanding balance of $31,893.86.* However, no payment has been received.

Pursuant to MPEP § 402.06, this Petition is being submitted in triplicate (this original and two copies). As also required by MPEP § 402.06, mailing addresses of the

* The outstanding balance of $31,893.86 is the total due by the applicant for both this patent application and for U.S. patent application No. 09/704,429, filed November 1, 2000 (attorney docket number V3S/A).

undersigned and of the applicant are set forth at the end of this Petition.

This Petition Should Be Granted

The U.S. Patent and Trademark Office has not yet issued an Office Action in connection with this application, and therefore applicant would not be prejudiced by the granting of this Petition (MPEP § 402.06).

The undersigned undertakes to send copies of the file of this application to the applicant upon granting of this Petition.

For the reasons set forth above, petitioners respectfully request that this Petition be granted promptly, and that the U.S. Patent and Trademark Office direct all future correspondence to the following address:

VitaCube Systems, Inc.
c/o Sanford Greenberg
President & CEO
480 South Holly Street, Suite 5
Denver, Colorado 80246

An early and favorable action on this Petition is respectfully requested.

Respectfully submitted,

JAMES F. HALEY, JR.
ROBERT R. JACKSON
JEFFREY H. INGERMAN
GERALD J. FLATTMANN, JR.
Attorneys of Record
LAURA A. SHERIDAN
Agent of Record

By: _____
Gerald J. Flattmann, Jr.
Registration No. 37,324
FISH & NEAVE
Customer No. 1473
1251 Avenue of the Americas
New York, New York 10020-1105
Tel.: (212) 596-9000
Fax : (212) 596-9090

I hereby certify that this Correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope Addressed to:
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450 on

January 21, 2004
Lillian Garcia

Lillian Garcia
Signature of Person Signing

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 2023
www.uspto.go

Paper No. 6

HELLER EHRMAN WHITE & MCAULIFFE LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025-3506

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APR 2 9 2003

OFFICE OF PETITIONS

In re Application of
Avi Ashkenazi et al
Application No. 10/265,542
Filed: October 3, 2002
For: USE OF A33 ANTIGENS AND JAM-IT

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

This is in response to the petition under 37 CFR 1.47(a), filed February 19, 2003.

The petition is granted.

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

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

This application is being forwarded to the Initial Patent Examination Unit.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 2023
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Daniel Tumas
3 Rae Avenue
Orinda, CA 94563

In re Application of
Avi Ashkenazi; Sherman Fong; Audrey Goddard; Austin L. Gurney; Mary A. Napier; Daniel Tumas; William I. Wood
Application No. 10/265,542
Filed: October 3, 2002
For: USE OF A33 ANTIGENS AND JAM-IT

Dear Mr. Tumas:

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

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

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (703) 306-5684. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

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

cc:

Heller, Ehrman White & McAuliffe LLP
275 Middlefield Road
Menlo Park, CA 94025-3506

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United States Patent and Trademark Office
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HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

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OFFICE OF PETITIONS

In re Application of	:	
Avi Ashkenazi et al	:	
Application No. 10/265,542	:	ON PETITION
Filed: October 3, 2002	:	
Attorney Docket No. GENENT.100A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 5, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application filed October 2, 2006.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE WI 53202-4497

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MAY 11 2006
OFFICE OF PETITIONS

In re Application of
Anthony R. Talamonti
Application No. 10/265,550
Filed: October 4, 2002
Attorney Docket No. 650912.90027

ON PETITION

This is a decision on the petition filed August 1, 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 February 7, 2005 for failure to timely pay the issue fee on or before February 4, 2005. Accordingly, a Notice of Abandonment was mailed March 22, 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

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
P.O. Box 1450
Alexandria, VA 22313-1450
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WILMER CUTLER PICKERING HALE AND DORR LLP
60 STATE STREET
BOSTON MA 02109

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AUG 23 2004

OFFICE OF PETITIONS

In re Application of
Sudhir Agrawal
Application No. 10/265,590
Filed: October 7, 2002
Attorney Docket No. 47508j-609CN1/HYZ-337CN1

DECISION GRANTING PETITION

This is a decision on the petition filed June 4, 2004 under 37 CFR 1.182 to correct the filing date from October 7, 2002 to July 10, 2002, which is treated as a petition under 37 CFR 1.10 (c).

The petition is **GRANTED**.

Petitioner alleges that the application was deposited in Express Mail service on July 10, 2002. In support, petitioner supplied a copy of Express Mail receipt No. EL540708900US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file).

Paragraph (c) of 37 CFR 1.10 states that:

Any person filing correspondence under 37 CFR 1.10 that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
(2) The number of the "Express Mail" mailing label was placed on the papers or fees that constitute the correspondence prior to the original mailing by "Express Mail;" and
(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The "date-in" shown on the Express Mail customer label submitted with the petition is illegible but, we will use the express mail label submitted March 30, 2004 with a previous request for a corrected filing receipt. It should also be noted that requests for corrected filing receipt or petitions under 37 CFR 1.182 are not the proper ways to correct a filing date when the communication was filed using Express Mail but instead, a petition under 37 CFR 1.10 is more appropriate.

The "date-in" on the Express Mail Label is July 10, 2002.

In view of the above however, the petition is granted and since no fee is due none will be charged.

The application is being forwarded to the Office of Initial Patent Examination for correction of the **filing date to July 10, 2002** and for issuance of a corrected filing receipt.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703)305-4497. Please be advised that the telephone number for the Office of Petitions will be changed to (571) 272-3282 effective September 28, 2004.

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
WASHINGTON, D.C. 20231
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Paper No. 6

HALE & DORR LLP
THE WILLARD OFFICE BUILDING
1455 PENNSYLVANIA AVE, NW
WASHINGTON DC 20004

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MAR 21 2003

OFFICE OF PETITIONS

In re Application of
Sumner II, et al.
Application No. 10/265,599
Filed: October 8, 2002
Attorney Docket No. 110346.201US2

DECISION GRANTING PETITION

This is a decision on the petition, filed January 21, 2003, requesting, in effect, withdrawal of the Notice to File Corrected Application Papers (Notice), mailed November 20, 2002, insofar as it alleges that pages 18-20 of the specification were omitted upon initial filing.

The application was deposited on October 8, 2002. On November 20, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that pages 18-20 of the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that pages 18-20 be accorded a filing date of October 8, 2002 on the basis that the entire specification, including allegedly missing pages 18-20, was received in the Patent and Trademark Office (PTO) on October 8, 2002. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing October 8, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 217 pages of specification. A review of the application file reveals that there are 214 pages present. Those pages missing correspond to pages 18-20.

The return postcard constitutes *prima facie* evidence that the entire specification, including missing pages 18-20, was filed on October 8, 2002. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioners' authorization, deposit account no. 08-0219 will be credited the $130.00 petition fee.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **October 8, 2002**, using the copy of pages 18-20 of the specification and the replacement drawings submitted on January 21, 2003.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Ronald Kananen
RADER FISHMAN & GRAUER PLLC
Lion Building
1233 20th Street N.W., Suite 501
Washington DC 20036

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FEB 22 2007

Technology Center 2100

In re Application of
TAKESHI ONODERA
Application No. 10/265,613
Filed: October 08, 2002

: DECISION DISMISSING PETITION
: TO RESET PERIOD FOR REPLY BY
: REMAILING THE OFFICE ACTION

This is a decision on the petition filed on November 07, 2005, requesting that the shortened statutory period for reply set forth in the Office communication mailed on June 23, 2005 be supplied with a new mail date and the shortened statutory period for reply set forth in the Office communication be restarted on the new mail date.

Petitioner provided a statement that no Notification of Change of Name and Address nor a change in the power of attorney was filed before the mailing of the June 23, 2005 office action and that the action was mailed to the wrong address. A request is also made to delete Salvatore Conte from the list of attorney's as no paper of record has given him authorization for this application. A review of the record reveals that the above statements are correct.

The Office communication originally mailed on June 23, 2005 has already been re-mailed as of January 18, 2007 and the shortened statutory period that was originally set forth in the Office communication has been restarted to run from the mail date of the newly supplied Office action.

As petition's relief has already occurred. The petition is DISMISSED.

A message is being forwarded to the Technical Support Staff to delete Salvatore Conte from the attorney record of this application.

Any inquiry concerning this decision should be directed to Tod Swann whose telephone is (571) 272-3612.

Tod Swann
Quality Assurance Specialist
Technology Center 2100
Computer Architecture and Software

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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AUG 27 2007

OFFICE OF PETITIONS

In re Application of	:	
TAKESHI ONODERA	:	DECISION ON APPLICATION
Application No. 10/265,613	:	FOR
Filed: 10/08/2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No. SON-2510	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed June 20, 2007. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to nine hundred ninety-two (992) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **nine hundred ninety-two** (992) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 12, 2007, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised that the patent term adjustment to date is zero (0) days. In response, applicant timely[1] filed the instant request for reconsideration of the patent term adjustment along with payment of the fee set forth

[1] Office Records indicate that the Issue Fee payment was received on July 17, 2007.

in 37 C.F.R. § 1.18(e). Applicant requests that the patent term adjustment be corrected to 992 days. Applicant asserts that the Office's delay pursuant to 37 C.F.R. § 1.703(a)(2) should be calculated as 565 days. Further, applicants assert that no circumstances exist within the prosecution of this application that may be considered as resulting in a failure to engage in reasonable efforts to conclude examination of the present application.

The application history has been reviewed and it has been determined that the initial patent term adjustment of zero days is incorrect. The Office mailed an Office action under § 1.132 on June 23, 2005; however, the Office action was not mailed to the correspondence address of record (but to an attorney not of record). The record supports a conclusion that this was due to an error on the part of the Office in mailing the Office action to applicant. Accordingly, a letter restarting the period for reply (and re-mailing the Office action) was mailed on January 18, 2007.

Thus, the Office's delay should be calculated using the date of January 18, 2007. Applicant's reply under § 1.111 was received on March 2, 2005. Thus, the period of adjustment is 565 days, the number of days in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed, July 3, 2005, and ending on the date of mailing of an Office action under 35 U.S.C. 132, January 18, 2007.

Under the circumstances, applicant is correct that applicant did not fail to engage in reasonable efforts within the meaning of § 1.704(b). Applicant's response filed April 4, 2007, was received within three months of the mailing of the Office action as re-mailed on January 18, 2007. Accordingly, a period of reduction of 558 days should not have been entered.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is 992 days (427 days[2] + 565 days of Office delay).

Submission of the $200.00 fee set forth in 37 C.F.R. § 1.703 is acknowledged. No additional fee is required.

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[2] The period of adjustment of 427 days for Office delay pursuant to 37 C.F.R. § 1.703(a)(1) is not in dispute.

Applicant is reminded that any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b) (1)(B); 35 U.S.C. 154(b)(2)(A); and 37 C.F.R. § 1.703(f).

The Office of Patent Publications has been advised of this decision. This matter is being referred to the Office of Patent Publications for issuance of the patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

Day : Friday
Date: 8/24/2007

PALM INTRANET

Time: 12:49:22

PTA Calculations for Application: 10/265613			
Application Filing Date:	10/08/2002	PTO Delay (PTO):	427
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	558
Post-Issue Petitions:	0	Total PTA (days):	992
PTO Delay Adjustment:	1123		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
48	08/24/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	558		
47	08/24/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	565		
39	06/12/2007	MAIL NOTICE OF ALLOWANCE			
38	06/10/2007	ISSUE REVISION COMPLETED			
37	06/10/2007	DOCUMENT VERIFICATION			
36	06/10/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
35	05/29/2007	NOTICE OF ALLOWABILITY			
34	05/22/2007	DATE FORWARDED TO EXAMINER			
33	05/11/2007	RESPONSE AFTER NON-FINAL ACTION			
32	04/17/2007	MAIL NON-FINAL REJECTION			
31	04/16/2007	NON-FINAL REJECTION			
30	04/10/2007	DATE FORWARDED TO EXAMINER			
29	04/04/2007	AMENDMENT AFTER FINAL REJECTION		558	21
28	04/03/2007	CASE DOCKETED TO EXAMINER IN GAU			
27	02/22/2007	PETITION DECISION - DISMISSED			
26	02/22/2007	PETITION ENTERED			
25	01/18/2007	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
24	01/18/2007	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
21	06/23/2005	MAIL FINAL REJECTION (PTOL - 326)			
20	06/13/2005	FINAL REJECTION			
19	03/31/2005	DATE FORWARDED TO EXAMINER			
18	03/02/2005	RESPONSE AFTER NON-FINAL ACTION			
17	02/07/2005	MAIL NON-FINAL REJECTION	427		-1
16	02/05/2005	NON-FINAL REJECTION			

15	02/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
14	09/13/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	04/03/2003	PRELIMINARY AMENDMENT			
12	10/08/2002	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
11	05/19/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	05/08/2003	TRANSFER INQUIRY TO GAU			
9	03/30/2003	TRANSFER INQUIRY TO GAU			
8	02/28/2003	APPLICATION DISPATCHED FROM OIPE			
7	02/28/2003	APPLICATION IS NOW COMPLETE			
5	02/06/2003	ADDITIONAL APPLICATION FILING FEES			
4	02/06/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
3	11/08/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	10/16/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/08/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/265,620	**8/11/03**	**JEFFREY D. CHINN, ET AL.**	**AM5912**

Title: **A METHOD FOR MEASURING ETCH RATES DURING A RELEASE PROCESS**

Art Unit	Paper Number

Correspondence Address:
BIRGIT E. MORRIS
PATENT COUNSEL
APPLIED MATERIALS, INC.
PO BOX 450A
SANTA CLARA, CA. 95052

PATENT & TRADEMARK OFFICE
MAILED
DEC 16 2004
LICENSING & REVIEW

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 533,754

Grant Date: 16-Dec-04

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Approved:
for Commissioner of Patents and Trademarks

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This license does not empower the filing of any applications, amendments, supplements or continuances originating in this country which disclose inventions, modifications, or variations not disclosed in the subject matter identified above.

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

The grant of this license does not in any way lesson the responsibility of the licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations, especially with respecct to certain countries, of other agencies, particularly the Office of Foreign Assets Control, Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Adminsttration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re:	CHINN et al.	:DECISION ON REQUEST
Petition No.:	10/265,620	:UNDER 37 CFR 5.25
Petition Filing Date:	August 11, 2003	

Title: A METHOD FOR MEASURING ETCH RATES DURING A RELEASE PROCESS

This is a decision on the petition for retroactive foreign filing license.

It has been determined that a retroactive license for foreign filing under 35 U.S.C. 184 be granted with respect to the filing(s) listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under secrecy order, that the license was diligently sought, and that the material was filed abroad without the required license under 37 C.F.R 5.11 through error and without deceptive intent.

Country	Date
Taiwan	15 October 2002

Yvonne R. Abbott
Patent Examiner
Licensing & Review
(703) 308-2866

UNITED STATES 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.

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

MAY 17 2010

OFFICE OF PETITIONS

In re Patent No. 7,494,684	:	DECISION ON REQUEST
Cruz et al.	:	FOR
Issue Date: February 24, 2009	:	RECONSIDERATION OF
Application No. 10/265,633	:	PATENT TERM ADJUSTMENT
Filed: October 8, 2002	:	and
Atty Docket No. 087258-0400	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 22, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by two hundred and fifty-five (255) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **two hundred and fifty-five (255)** days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

It is noted that as the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on October 9, 2005 and ends on June 25, 2006, the day before the first RCE was filed, which amounts to 260 (not 261) days. See U.S.C. 154(b)(1)(B)(i).

Further, patentee implicitly recognizes that the period of adjustment of 10 days entered for Office delay in mailing the notice of allowance on October 20, 2008 is not warranted. The appeal brief filed June 10, 2008 was non-compliant. The notice of allowance was mailed within four months of the filing of the compliant appeal brief. Accordingly, these 10 days of office delay are being removed.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two hundred and fifty-five (255) days**.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,494,684 B2

DATED : **February 24, 2009** **DRAFT**

INVENTOR(S) : Cruz et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 5 days

Delete the phrase "by 5 days" and insert – by 255 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

CROWELL & MORING
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

COPY MAILED
MAY 13 2004
OFFICE OF PETITIONS

In re Application of :
Akiyoshi Saitoh :
Application No. 10/265,637 :
Filed: October 8, 2002 :
Attorney Docket No. 2090/51664US :

ON PETITION

This is a decision on the petition, filed May 11, 2004, under 37 CFR 1.313 (c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 8, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 3723 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

Date : May 13, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Akiyoshi Saitoh
Application No. : 10/265,637
Filed : October 8, 2002

The above-identified application has been assigned Patent No. 6,736,707 and an issue date of May 18, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 18, 2004:

"All reference to Patent No. 6,736,707 to Akiyoshi Saitoh of Ikeda-shi, JAPAN for VERTICAL TYPE OF DOUBLE DISC SURFACE GRINDING MACHINE appearing in the Official Gazette of May 18, 2004 should be deleted since no patent was granted."

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

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, Crystal Park 3-910

HIC

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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OIPE JC174
APR 1 2 2005
PATENT & TRADEMARK OFFICE

Paper No.

CROWELL & MORING
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

COPY MAILED
MAY 1 3 2004
OFFICE OF PETITIONS
ON PETITION

In re Application of :
Akiyoshi Saitoh :
Application No. 10/265,637 :
Filed: October 8, 2002 :
Attorney Docket No. 2090/51664US :

This is a decision on the petition, filed May 11, 2004, under 37 CFR 1.313 (c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 8, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 3723 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PAUL C. JONES
SUPERTECH AMERICA, INC.
SUITE 200
2221 EAST STREET
GOLDEN CO 80401

COPY MAILED
JAN 2 1 2009

In re Application of	:	
KORISCH, Semmen I.	:	
Application No. 10/265,655	:	DECISION ON PETITION
Filed: October 07, 2002	:	
Attorney Docket No	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 09, 2007 which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 10, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of response; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of October 09, 2007 is accepted as having been unintentionally delayed.

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

The application file is being referred to Technology Center AU 3692 for appropriate action on the concurrently filed response.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

Cc: **SEMMEN I. KORISCH**
216 MOSCOVSKAYA STRETT,
APT. 48
EKATERINBURG, 620146
RUSSIA

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,804,489	2004-10-12	10/265,672	2002-10-08	100255-13816US01

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	/David R. Schaffer/	Date (YYYY-MM-DD)	2008-10-20
Name	David R. Schaffer	Registration Number	43089

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. 6804489
Issue Date: October 12,2004
Application No. 10265672
Filed: October 8,2002
Attorney Docket No. 29239-176782

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

This is a decision on the electronic petition, filed October 20,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 20,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VOLENTINE FRANCOS, & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON, VA 20190

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APR 27 2006

OFFICE OF PETITIONS

In re Application of :
Franke, et al. : DECISION ON PETITION
Application No. 10/265,703 :
Filed: October 8, 2002 :
Atty. Dkt. No.: CIRC.001C :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 27, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned October 29, 2005 for failure to timely reply to the non-final Office action mailed July 28, 2005. The Notice set a three (3) month shortened statutory period of time for reply. No petition for extension of time in accordance with 37 C.F.R. § 1.136 was timely submitted. Notice of Abandonment was mailed March 7, 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 will be forwarded to Technology Center 2100 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 PATEN
UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
www.uspto.g

MAILED

MAR 2 5 2003

Technology Center 2100

Paper No. 3

John W. Ryan
WILMER, CUTLER & PICKERING
2445 M Street, N.W.
Washington, DC 20037

In re Application of:	)	
Greg Gershman et al.	)	
Application No. 10/265,740	)	**DECISION ON REQUEST FOR**
Filed: October 08, 2002	)	**WITHDRAWAL AS ATTORNEY**
For: COORDINATION OF DATA RECEIVED FROM ONE OR MORE SOURCES OVER ONE OR MORE CHANNELS INTO A SINGLE CONTEXT	)	

This is a decision on the Request To Withdraw from Representation filed March 14, 2003.

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

The request filed March 14, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

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

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

cc: Brad Aaron
AETHER SYSTEMS, INC.
11469 Cronridge Drive
Owings Mills, MD 21117

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WILLIAM H. BOLLMAN
MANELLI DENISON & SELTER PLLC
2000 M STREET NW
WASHINGTON, DC 20016

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AUG 15 2008

In re Application of	:	
Gershman, et. al.	:	
Application No. 10/265,740	:	DECISION ON PETITION
Filed: October 8, 2002	:	
Attorney Docket No. 003636.0123US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 7, 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 9, 2008, as required by the Notice of Allowance and Fee(s) Due mailed January 9, 2008. Accordingly, the application became abandoned on April 10, 2008. A Notice of Abandonment was mailed May 5, 2008.

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

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

COPY MAILED

MAR 19 2008

OFFICE OF PETITIONS

In re Application of
Danne Buchanan et al.
Application No. 10/265,779
Filed: October 8, 2002
Attorney Docket No. 057898-0106

: 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 January 18, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed non-provisional applications 09/560,779 filed April 28, 2000, 09/676,956 filed October 2, 2000, 09/560,779 filed April 28, 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 Commissioner may require additional information where there is a question whether the delay was unintentional.

In response to the non-Final Office Action mailed August 23, 2007, the instant petition is filed to claim the benefit of the prior filed applications noted in the amendment filed January 18, 2008 with a two month extension of time.

The petition does not satisfy items (1) and (2) above.

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).

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either a Supplemental Application Data Sheet (signed in compliance with 37 CFR 1.33(b) and in compliance with 37 CFR 1.76) or a substitute amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

Deposit account no. 19-0741 has been charged in the amount of $1280.00 to make up the difference between the $130.00 paid by credit card with the petition. Petitioners are advised that the fee for a petition under 37 CFR 1.78(a)(3) is $1410 not $130.

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 Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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MAY 06 2008

OFFICE OF PETITIONS

In re Application of
Danne Buchanan et al.
Application No. 10/265,779
Filed: October 8, 2002
Attorney Docket No. 057898-0106

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) filed April 10, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed non-provisional applications 09/560,779 filed April 28, 2000 and 09/676,956 filed October 2, 2000.

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.

A petition filed January 18, 2008, in response to the non-Final Office Action mailed August 23, 2007, was dismissed in a decision mailed March 19, 2008 because the amendment filed January 18, 2008 improperly incorporated by reference 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).

Comes now petitioner with the instant renewed petition, a Supplemental Application Data Sheet and an amended specification to include the specific reference required by 35 U.S.C. § 120 .

The Application Data Sheet filed with the instant renewed petition is not in compliance with 37 CFR 1.76 as it is not signed. The requirement is that the Application Data Sheet be a "Supplemental Application Data Sheet" and be signed. 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in the application must be signed by an appropriate party. Therefore, an ADS or a supplemental ADS filed after the filing of an application must be signed in accordance with 37 CFR 1.33(b). Nonetheless, it is determined that the amendment filed April 10, 2008 will be accepted.

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

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

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

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3694 for appropriate action on the amendment filed April 10, 2008, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/265,779	10/08/2002	3694	7352	057898-0106	90	6

CONFIRMATION NO. 6144

CORRECTED FILING RECEIPT

22428
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

OC000000029767775

Date Mailed: 05/06/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Danne Buchanan, Sandy, UT;
William Ronald Titus, Fruit Heights, UT;

Assignment For Published Patent Application

ZIONS BANCORPORATION

Power of Attorney: The patent practitioners associated with Customer Number 22428

Domestic Priority data as claimed by applicant

This application is a CIP of 09/560,779 04/28/2000 PAT 7,181,430
and is a CIP of 09/676,956 10/02/2000 PAT 7,216,106
which is a CIP of 09/560,779 04/28/2000 PAT 7,181,430

Foreign Applications

If Required, Foreign Filing License Granted: 11/01/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/265,779**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Return item early notification and return

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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HOUSTON, TX 77251-1212

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MAR 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Theodore F. Griffin et al	:	
Application No. 10/265,788	:	ON PETITION
Filed: October 7, 2002	:	
Attorney Docket No. OTD-030387-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 6, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 31, 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 April 1, 2004.

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

This matter is being forwarded to Technology Center AU 3676.

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

SPE A. Grimley

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/265,790

Paper No.: _____

DATE : 5/20/05

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction on Patent No.: 6850722

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

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

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

Best Available Copy

Lamonte Newsome

Thank You For Your Assistance

Certificates of Correction Branch

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

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

Comments:

_____

_____

_____

_____

_____

SPE

2852
Art Unit

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IMMUNEX CORPORATION
LAW DEPARTMENT
1201 AMGEN COURT WEST
SEATTLE, WA 98119

In re Application of	:
David J. Cosman	:
Serial No.: 10/265,811	: PETITION DECISION
Filed: October 4, 2002	:
Attorney Docket No.: 3205-US-NP	:

This is in response to the petition under 37 CFR § 1.181, filed August 30, 2007, requesting that the finality of the Office action of June 4, 2007 be withdrawn.

BACKGROUND

More recently, the examiner filed a non-final Office action on January 4, 2007 setting a three month shortened statutory period for reply in response to applicant's filing of an RCE in this application on October 19, 2006. In the non-final Office action of January 4, 2007, claims 1, 2, 4-11, 25, 27, 28, 34, 36, 43-47 and 49-63 were pending in the application. Claims 6-8, 10, 34, 36, 43-47 and 53-57 were withdrawn from consideration on the merits. The Examiner allowed claims 1, 2, 4, 5, 9, 11, 25, 27, 49-52, 58 and 63. The Examiner rejected claims 28 and 59-62 under 35 U.S.C. 112 first paragraph, as failing to comply with the written description requirement.

Applicant submitted a response to the non-final Office action of January 4, 2007 on March 12, 2007, which included the cancellation of claims 28 and 59-62 as well as remarks.

The examiner mailed a final Office action on June 4, 2007, setting a three month shortened statutory period for reply. In this Office action, the examiner indicated that claims 1, 2, 4-25, 27, 34, 36, 43-47, 49-58 and 63 were pending in the application. However; as a correction, claims 1, 2, 4-11, 25, 27, 34, 36, 43-47, 49-58 and 63 were pending and actually examined at this time. The examiner also stated that claims 34, 36 and 43-47 "directed to the process of making or using the allowable product, previously withdrawn from consideration as a result of a restriction requirement, are hereby rejoined and fully examined for patentability under 37 CFR 1.104." The examiner indicated that claims 53-57 remained withdrawn from consideration on the merits, as the examiner stated that these claims "...do not include the limitation of the ULBP4 protein binding and stimulating NK cell cytotoxicity" and therefore were not rejoined for examination

on the merits. Additionally, the examiner allowed claims 1, 2, 4-11, 25, 27, 49-52, 58 and 63 and rejected the rejoined claims, 34, 36 and 43-47, under 35 U.S.C., first paragraph, as failing to comply with the enablement requirement.

In response thereto, applicants filed this petition on August 30, 2007, requesting that the finality of the Office action of June 4, 2007 be withdrawn.

DISCUSSION

Applicant argues

> ...claims 34, 36, and 43-47 should have been rejoined and examined in the previous Office Action dated January 4, 2007 since the composition claim (claim 1) upon which they depend was allowed in this action. Instead these rejoined method claims were examined for the first time in the final Office Action dated June 4, 2007. All depend ultimately from claim 1.

Applicant additionally states that the MPEP § 821.04 recites:

> Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, *withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim* will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of *an allowable product claim* for that process invention to be rejoined (emphasis in applicant's original arguments)

Applicant additionally asserts that the restriction requirement set forth by the examiner on November 17, 2005 stated:

> Where applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims that depend from or otherwise include all the limitations of the allowed product claim will be rejoined in accordance with the provisions of MPEP § 821.04

Applicant argues that "the MPEP does <u>not</u> say that *all* product claims must be allowed for rejoinder to be proper. It says that a product claim must be allowable for rejoinder to be considered."

Applicant cites MPEP § 821.04 "If restriction is required....making a first Office action on the merits final" and concludes that the finality of the previous Office action is improper because a new ground of rejection was made which was not necessitated by claim amendment.

Applicant's arguments are not found persuasive. The MPEP states that when all of the claims of the elected invention are allowable, rejoinder is considered. MPEP § 821.04 commences by stating:

> The propriety of a restriction requirement should be reconsidered when *all the claims directed to the elected invention are in condition for allowance* and the nonelected invention(s) should be considered for rejoinder. Rejoinder involves *withdrawal of a restriction requirement between an allowable elected invention and a nonelected invention and examination of the formerly nonelected invention on the merits.* In order to be eligible for rejoinder, a claim to a nonelected invention must depend from or otherwise require all the limitations of an allowable claim. A withdrawn claim that does not require all the limitations of an allowable claim will not be rejoined (emphasis added)

Thus, the first step in reconsideration of a restriction requirement is to verify that *all* of the claims of an elected invention are allowed. The second step is to determine if the withdrawn claims are eligible for rejoinder by deciding whether the withdrawn claims either depend upon, or otherwise require all the limitations of an allowable claim (an allowable claim within the allowable, elected invention).

Although applicant argues that the restriction requirement set forth by the examiner on November 17, 2005 stated; "Where applicant elects claims directed to the product, and a product claim is subsequently found allowable....." the paragraph used by the examiner also concludes by stating "...withdrawn process claims that depend from or otherwise include all the limitations of the allowed product claim will be rejoined *in accordance with the provisions of MPEP § 821.04*." (emphasis added)

In accordance with the provisions of MPEP § 821.04, because all of the elected claims were not allowable at the time of the first Office action on the merits of January 4, 2007, rejoinder was not necessary.

Although applicant argues that MPEP § 821.04 recites "Where applicant elects claims directed to the product , and the product claims are subsequently found allowable, *withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim* will be considered for rejoinder....." the explicit recitation of MPEP § 821.04 states:

> ...if applicant elects a claim(s) directed to a product which is subsequently found allowable, withdrawn process claims which depend from or otherwise require all the limitations of an allowable product claim will be reconsidered for rejoinder MPEP § 821.04 (b)

Here, 821.04(b) necessarily correlates with the commencement of 821.04 because read in plural form, the excerpt from MPEP § 821.04 recites "...if applicant elects *claims* directed to a product which *are* subsequently found allowable..." therefore indicating that when all of the claims of the elected invention are allowable, rejoinder is then considered between the allowable product claim(s) and the non-elected process claim(s).

The MPEP § 821.04 further states:

> If rejoinder occurs after the first Office action on the merits, and if any of the rejoined claims are unpatentable, e.g., if a rejection under 35 U.S.C. 112, first paragraph is made, then the next Office

> action may be made final where the new ground of rejection was necessitated by applicant's amendment.....If restriction is required between product and process claims, for example, *and all the product claims would be allowable in the first Office action on the merits, upon rejoinder of the process claims*, it would not be proper to make the first Office action on the merits final if the rejoined process claim did not comply with the requirements of 35 U.S.C. 112, first paragraph. This is because the rejoinder did not occur after the first Office action on the merits (emphasis added)

Thus, MPEP § 821.04 indicates that if rejoinder is made after the first Office action on the merits, and a rejection is made on the rejoined claims, the Office action may be made final if the rejection was necessitated by amendment. This excerpt from the MPEP also provides further evidence that non-elected claims are not considered for rejoinder until all of the claims of the elected invention are in condition for allowance.

It is clear from the restriction requirement set forth by the examiner on 11/17/05, that claims 1-11, 25-28 and 48-52 were an invention; specifically, the invention of Group I. In the amendment filed by applicant on 10/19/06, claims 59-63 were newly added, and claim 28 was amended to recite that it was dependant upon claim 58. In the non-final Office action of January 4, 2007, the Examiner did not indicate that these claims were directed toward a distinct invention from the invention of Group I (i.e., claims 1-11, 25-28 and 48-52) and did not withdraw these claims from consideration on the merits. Rather, the examiner examined claims 28 and 59-63, thereby indicating that these claims were grouped with the elected invention. The examiner subsequently rejected claims 28 and 59-62 in the non-final Office action of January 4, 2007 under 35 U.S.C. first paragraph for lacking written description.

Cancellation of claims 28 and 59-62 in the amendment submitted by applicant on March 12, 2007 yielded the allowable, elected invention of claims 1, 2, 4-11, 25, 27, 49-52, 58 and 63. The examiner properly reconsidered the restriction requirement in accordance with the provisions of MPEP § 821.04, and indicated that claims 34, 36 and 43-47 were rejoined for examination on the merits, and that claims 53-57 would not be rejoined, as the examiner indicated that these claims did not include all of the limitations of an allowable claim. Rejoined claims 34, 36 and 43-47 were subsequently rejected under 35 U.S.C. 112, first paragraph for lacking enablement.

Therefore, it is decided that the cancellation of claims 28 and 59-62 in the amendment submitted by applicant on March 12, 2007 necessitated the new grounds of rejection of claims 34, 36 and 43-47 set forth in the final Office action of June 4, 2007.

Applicant's arguments are not persuasive that the final Office action issued June 4, 2007 was premature and the finality of the Office action will be not be withdrawn.

DECISION

The petition is **DENIED**.

This application will be forwarded to the examiner for an action not inconsistent with this decision.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Christopher Low
Acting Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/15/05

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction on Patent No.: 6,661,155

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:

DARREN SCHUBERG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2834
Art Unit

3/5/04

Cof C

BAKER BOTTS LLP

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Austin, Texas
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512.322.2500

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PATENT & TRADEMARK OFFICE

March 4, 2004

Bruce W. Slayden II
512.322.2606
FAX 512.322.8306
bruce.slayden@bakerbotts.com

Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Certificate
MAR 1 1 2004
of Correction

Re: U.S. Patent No. US 6,661,155 B2
Issue Date: December 9, 2003
Serial No.: 10/265,840
Filing Date: October 7, 2002
Title: ***Method and Device for Controlling at Least One Capacitive Actuator***
Our File: 071308.0335

Dear Sir or Madam:

In accordance with 37 C.F.R. §1.322, patentee requests the U.S. Patent and Trademark Office to issue a Certificate of Correction for U. S. Patent No. 6,661,155 B2 and place a Certificate of Correction in the file, to reflect the correction shown in the attached Certificate of Correction Form PTO-1050.

The Commissioner is hereby authorized to charge any amount required by this paper or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

It is respectfully requested that a Certificate of Correction be issued therefore.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicants

Bruce W. Slayden II

Bruce W. Slayden II
Registration No. 33,790

BWS:hdm
Enclosure

MAR 1 1 2004

AUS01:340015.1

ATTORNEY DOCKET
071308.0335

OIPE JC13
MAR 0 4 2004
PATENT & TRADEMARK OFFICE

PATENT APPLICATION
10/265,840

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: Serial No.: 10/265,840

Filing Date: October 7, 2002

Title: ***Method and Device for Controlling at Least One Capacitive Actuator***

Inventor: Walter Schrod

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

Dear Sir:

CERTIFICATE OF MAILING BY EXPRESS MAIL

I hereby certify that the attached transmittal and Certificate of Correction is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on this 4th day of March, 2004, and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Jay Howard

Jay Howard

Express Mail Receipt
No. EV352388093US

Attorney Docket:
071308.0335

MAR 1 1 2004

AUS01:340535.1

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

Patent No.: US 6,661,155 B2
Dated: December 9, 2003
Inventor(s): Schrod

It is certified that errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Face page, [63] Please correct the filing date of the related PCT Application and delete **[May 4, 2001]** and replace with --**"April 5, 2001"**--

Mailing Address of Sender:
Baker Botts L.L.P.
98 San Jacinto Blvd.
1500 San Jacinto Center
Austin, Texas 78701-4039

Patent No. US 6,661,155 B2

MAR 1 1 2004

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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WOMBLE CARYLE SANDRIDGE & RICE, PLLC
ATTN: PATENT DOCKETING 32ND FLOOR
P. O. BOX 7037
ATLANTA, GA 30357-0037

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MAY 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Maxine Eskenazi	:	
Application No. 10/265,862	:	DECISION ON PETITION
Filed: October 7, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 020491	:	

This is a decision on the petition, filed October 25, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on September 17, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 16, 2007 accompanies this decision on petition.

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

This application is currently before Technology Center Art Unit 2626 for appropriate action in the normal course of business on the reply received November 2, 2006 to the non-final Office action of May 2, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/265,862	10/07/2002	Maxine Eskenazi	C52651 1010.1

CONFIRMATION NO. 9730

26158
WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
ATTN: PATENT DOCKETING 32ND FLOOR
P.O. BOX 7037
ATLANTA, GA 30357-0037

Date Mailed: 05/10/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 08/16/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. 012104

David J. Bates
FOLEY & LARDNER
777 East Wisconsin Avenue
Milwaukee, WI 53202-5367

MAR 18 2004

In re Application of:
MAIWALD *et al.*
Serial No.: 10/265,886
Filed: October 07, 2002
Attorney Docket No.: **023791-0191**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed February 03, 2003, to make the above-identified application special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), § 708.02, Item V: Environmental Quality and Item VI: Energy.

The petition is **granted.**

A grantable petition under 37 C.F.R. § 1.102(c), and in accordance with M.P.E.P. § 708.02, Item V, for inventions which materially enhance the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements, i.e., air, water, and soil, must be accompanied by statements under 37 C.F.R. § 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the invention contributes to the restoration or maintenance of one of these life-sustaining elements. No fee is required for this petition.

A grantable petition under 37 C.F.R. § 1.102(c), and in accordance with M.P.E.P. § 708.02, Item VI, for inventions which materially contribute to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources, must be accompanied by statements under 37 C.F.R. § 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the invention materially contributes to category (A) or (B) set forth above. No fee is required for this petition.

Petitioner asserts that the present invention provides for large-scale hydrogen production with little or no contamination of the local environment (i.e., the air, water and soil surrounding the hydroturbine dam) by utilizing filtration and other techniques that continuously remove and/or capture potentially harmful by-products of the hydrogen production process. Furthermore, the present invention provides for improved efficiencies in the storage of hydrogen (e.g., by utilizing

metal hydride storage vessels) and the transport of hydrogen (e.g., by dynamically determining the most efficient transport mechanism for the energy) than has heretofore been accomplished in large-scale hydroturbine installations. Thus, contributing to the development of energy resources.

The petition satisfies the requirements pursuant to M.P.E.P. § 708.02, Item VI. Accordingly, the petition is **granted.**

The petition under 37 C.F.R. § 1.102(c) and pursuant to M.P.E.P. 708.02, Item V, is rendered moot in light of the above.

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

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

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

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

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

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

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P.O. BOX 1596
WILMINGTON, DE 19899

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DEC 2 1 2005

OFFICE OF PETITIONS

In re Application of	:	
John Francis, et. al.	:	
Application No. 10/265,891	:	DECISION ON PETITION
Filed: October 7, 2002	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. CI5028AO CNT	:	

This is a decision on the petition under 37 CFR 1.55(c), filed September 7, 2005, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of foreign Great Britain Application No. EP 96305953.0, filed August 14, 1996.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6)**;
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition fails to comply with item (2) above. In this regard, a review of the file record fails to disclose that the priority information was included in an oath or declaration or in an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(6). Unless provided in an ADS, 37 CFR 1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent (or inventor's certificate) for which priority is claimed under 37 CFR 1.55, and any foreign applications having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14, page 200-77 (Rev. 2, May 2004), last paragraph, second column.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

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

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

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

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

Any questions concerning this matter may be directed to Andrea Smith at (571) 272-3226.

Frances Hicks

Frances Hicks
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
www.uspto.gov

caj

Mailed: 8/31/06

In re application of	:	
John Francis et al.	:	DECISION ON
Serial No. 10/265,891	:	PETITION
Filed: October 7, 2002	:	

For: OPAQUE POLYESTER FILM AS SUBSTRATE WITH WHITE COATINGS ON BOTH SIDES

This is a decision on the PETITION UNDER 37 CFR 1.181 FOR ENTRY OF THE AFTER FINAL AMENDMENT filed April 14, 2006.

On January 10, 2006, a final office action was mailed to Applicants, rejecting all of the pending claims under 35 USC 102 and/or 35 USC 103. Applicants responded to this office action with an amendment after final which was filed on April 14, 2006. The examiner refused entry of the amendment in an advisory action mailed May 1, 2006.

On June 13, 2006, the instant petition under 37 CFR 1.181 was timely filed to request the entry in whole or in part of the after final amendment of April 14, 2006.

Petitioner's position is that the amendment after final does 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(b)(3) is expected in all amendments after final rejection. An affidavit or other evidence filed after a final rejection, but before or on the same date of filing an appeal, may be entered upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented in compliance with 37 CFR 1.116(e). See 37 CFR 41.33 and MPEP § 1206 for information on affidavit or other evidence filed after appeal. 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. See also MPEP § 1206 and § 1211.

ACTION BY EXAMINER
See also MPEP § 706.07(f).
In the event that a proposed amendment does not place the case in better form for appeal, nor in condition for allowance, applicant should be promptly informed of this fact, whenever possible, within the statutory period. The refusal to enter the proposed amendment should not be arbitrary. The proposed amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified. Ordinarily, the specific deficiencies of the amendment need not be discussed. However, if the proposed amendment raises the issue of new matter, the examiner should identify the subject matter that would constitute new matter. If the proposed amendment presents new issues requiring further consideration and/or search, the examiner should provide an explanation as to the reasons why the proposed amendment raises new issues that would require further consideration and/or search. The reasons for nonentry should be concisely expressed. 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).

Section 714.20 of the MPEP states :

List of Amendments Entered in Part
To avoid confusion of the record the general rule prevails that an amendment should not be entered in part. At times, the strict observance of its letter may sometimes work more harm than would result from its infraction, especially if the amendment in question is received at or near the end of the period for reply. Thus:
(A) An "amendment" presenting an unacceptable substitute specification along with amendatory matter, as amendments to claims or new claims, should be entered in part, rather than refused entry in toto. The substitute specification should be denied entry and so marked, while the rest of the paper should be entered. The application as thus amended is acted on when reached in its turn, the applicant being advised that the substitute specification has not been entered. See 37 CFR 1.125 and MPEP § 608.01(q) for information regarding the submission of a substitute specification. Under current practice, substitute specifications may be voluntarily filed by the applicant if he or she desires. A proper substitute specification will normally be accepted by the Office even if it has not been required by the examiner. However, entry of a substitute specification filed after the notice of allowance has been mailed (37 CFR 1.312) is not a matter of right.
(B) An amendment under 37 CFR 1.312, which in part is approved and in other part disapproved, is entered only as to the approved part. See MPEP § 714.16(e).
(C) In an application in which prosecution on the merits is closed, i.e., after the issuance of an Ex Parte Quayle action, where an amendment is presented curing the

noted formal defect and adding one or more claims some or all of which are in the opinion of the examiner not patentable, or will require a further search, the amendment in such a case will be entered only as to the formal matter. Applicant has no right to have new claims considered or entered at this point in the prosecution.
(D) In an amendment accompanying a motion granted only in part, the amendment is entered only to the extent that the motion was granted.

In the final rejection mailed January 10, 2006, all of the claims were rejected under 35 USC 102 and/or 103. In the after final amendment filed April 14, 2006, Applicants attempted to cancel claim 28, incorporate the limitation of claim 28 into claim 1 (upon which claim 28 was solely dependent), and amend independent claims 11 and 32 to include the thickness limitation previously present in claim 28. 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 as the thickness limitation had not been previously considered in combination with claims 11 and 32 and their dependents.

Petitioner argues that the addition of the thickness limitation to claims 11 and 32 would not require additional consideration. However, as acknowledged by petitioner, claims 11 and 32 are of a different scope than the limitations previously considered by the examiner. This difference in scope has not been previously considered or addressed by the examiner and, as noted by the examiner in the advisory action, would require further consideration and/or search. As such, the amendment does not serve to reduce issues for appeal.

Petitioner argues that the amendment should be entered at least partially. After final amendments may not be entered in part; therefore, petitioner's request for entry of the amendments to pertaining to claims 1, 25, 26, and 28-31 alone is improper.

Accordingly, the petition for entry of the after final amendment is **DENIED.**

Jacqueline M. Stone

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

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P.O. BOX 1596
WILMINGTON, DE 19899

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2200 CLARENDON BLVD
SUITE 1400
ARLINGTON VA 22201

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DEC 08 2005

OFFICE OF PETITIONS

In re Application of		
Lasely, et al.	:	
Application No. 10/265,904	:	DECISION ON
Filed: October 8, 2002	:	PETITION
Attorney Docket No. DANA-285	:	

This is in response to the paper titled "PETITION TO WITHHOLD NOTICE OF ABANDONMENT", filed October 27, 2005, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

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

The holding of abandonment is **WITHDRAWN**.

The above-identified application was held abandoned for failure to timely file an Appeal Brief. Applicants filed a Notice of Appeal on December 20, 2004. Accordingly, applicants had two months from this date, or until February 20, 2005, in which to file an Appeal Brief. Extensions of time under 37 CFR 1.136(a) were available. No Appeal Brief having been received, the above identified application became abandoned on February 21, 2005. A Notice of Abandonment was mailed on July 25, 2005.

Petitioner has supplied a copy of an Appeal Brief, bearing a Certificate of Transmission under 37 CFR 1.8 dated April 20, 2005. The Appeal Brief contained an authorization to charge the fee for the brief as well as any necessary extensions of time to Deposit Account No. 50-0548. A review of Office

records confirms that the deposit account contained sufficient funds at that time to charge the $500 Appeal Brief fee and the $450 fee for a two month extension of time.

In view of the above, the holding of abandonment is withdrawn.

As the fees for the Appeal Brief and extension of time were never charged, those fees have now been charged to petitioner's deposit account. No petition fee has been charged.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application file is being forwarded to Group Art Unit 1724 for consideration of the Appeal Brief filed October 27, 2005 (Certificate of Mailing dated April 20, 2005).

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

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Berenato, White & Stavish
6550 Rock Spring Drive
Suite 240
Bethesda, MD 20817

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 8

DORSEY & WHITNEY
EMBARCADERO CENTER
SUITE 3400
SAN FRANCISCO, CA 94111-4187

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MAR 12 2003

OFFICE OF PETITIONS

In re Application of	:	
Arthur A. Hochschild et al	:	
Application No. 10/265,917	:	NOTICE
Filed: October 7, 2002	:	
Attorney Docket No. A-71919 ESW	:	

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 3673.

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

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Paper No. 9

MORGAN & FINNEGAN, L.L.P.
345 PARK AVENUE
NEW YORK NY 10154-0053

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JUL 3 1 2003

OFFICE OF PETITIONS

In re Application of
Masakazu Matsugu et al.
Application No. 10/265,923
Filed: October 7, 2002
Attorney Docket No. 1232-4170US4

DECISION DISMISSING PETITION

This is a decision on the petition filed on January 21, 2003, under 37 CFR 1.53 in response to the Notice of Omitted Items November 20, 2002.

The application was filed October 7, 2002. On November 20, 2002, however, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Items in a Nonprovisional Application stating that the application had been accorded a filing date of October 7, 2002, but that, Pages 6 and 11 of the specification (description and claims) appeared to have been omitted from the application. Subsequent to the filing of the application but prior to the mailing of the Notice of Omitted Items on November 20, 2002, a replacement specification was filed which included pages 6 and 11 of the specification, previously omitted.

In response, on November 20, 2002, the present petition was filed. Petitioner argues that the present application is a continuation of 08/893,929 filed January 15,1997 . Petitioners further argue that the entire disclosure of application 08/893,929 was incorporated by reference into the instant continuation application. And, since the continuation specification is a true copy of application 08/893,929, the specification should be deemed to have been filed with this application. This argument is persuasive. In a continuation application filed under 1.53(b), 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 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. See MPEP 201.06(c). A review of the application-as-filed reveals that the instant continuation application transmittal contained such a statement.

However, the "Notice" mailed on November 20, 2002, was correct in stating that Figures 6 and 11 described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn. The petition fee will not be refunded because there was no error on the part of the USPTO.

Accordingly, the petition is **DISMISSED**

Obviously, in view of the incorporation by reference in the prior application, pages 6 and 11 of the specification is not new matter if it was a part of the disclosure of the prior application. For future references, applicants could file an amendment to include missing pages of a specification without a petition.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of October 7, 2002, using the application papers

received in the Office on that date and pages 6 and 11 of the specification submitted on October 8, 2003 and again with the petition filed January 31, 2003. Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

OIPE
OCT 0 6 2003
PATENT & TRADEMARK OFFICE

1744
Det. Dec.

REPRESENTATIVE OF INVENTOR OR OWNER

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

RECEIVED
OCT 0 8 2003
TC 1700

Application Number	10/265,947
Filing Date	10/07/2002
First Named Inventor:	Michael Ehrlich
Group Art Unit	1744
Examiner Name	(unknown)
Title:	Air Freshener Device With Child Resistant Features
Attorney Docket Number:	HSI 1-001

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

I hereby apply to withdraw as attorney or agent for the above-identified patent application. The reasons for this request are:

Applicant (inventor) wishes to assume responsibility for prosecution of the application.

1. ☐ The correspondence address is NOT affected by this withdrawal.

2. ☒ Change the correspondence address and direct all future correspondence to:

Approved
Jacqueline M. Stone, Director
Technology Center 1700
JUN 29 2004

Michael Ehrlich
555 North Avenue
Fort Lee, New Jersey 07024
201 646 2245

This request is enclosed in triplicate.

By Richard R. Muccino
Richard R. Muccino date
Reg. No. 32,538

RECEIVED
OCT 29 2003

Richard R. Muccino
758 Springfield Avenue
Summit, New Jersey 07901
(908) 273-4988

CERTIFICATE OF MAILING PURSUANT TO 37 C.F.R. SECTION 1.8

I hereby certify that this correspondence is being deposited, pursuant to 37 C.F.R. Section 1.8, with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner of Patents, P.O. Box 1450, Arlington, VA 22313-1450 on this 30th of October, 2003.

By Richard R. Muccino 30 Oct 03
Richard R. Muccino date
Reg. No. 32,538

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON DC 20007

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DEC 1 1 2008

OFFICE OF PETITIONS

In re Patent No.	:	
6,699,878	:	
Issue Date: March 2, 2004	:	ON PETITION
Application No. 10/265,956	:	
Filed: October 7, 2002	:	
Attorney Docket No. 084437-0192	:	

This is a decision on the petition, filed August 30, 2007, under 37 CFR 1.182 or alternatively 37 CFR 1.59 to expunge confidential documents inadvertently recorded in Assignment Branch. The petition is being treated as a petition under 37 CFR 1.182 to expunge an assignment previously recorded against the above-identified patent.

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

Petitioner complains that a previously recorded assignment document dated July 26, 2007 contains confidential information unrelated to the integrity of the assignment. Hence petitioner request expungement of the assignment as discussed in MPEP § 323.01(d).

Initially, while petitioner seeks an extraordinary remedy properly treated under 37 CFR 1.182, it is pointed out that the USPTO will not normally resort to an extraordinary remedy under 37 CFR 1.182 if the rules of practice and the procedures before the USPTO already provide and avenue for the requested relief. See Cantello v. Rasmussen, 220 USPQ 664 (Comm'r Pats. 1982).

As background, the USPTO simply acts in a ministerial capacity in recording documents that have been submitted for recordation. See 35 USC 261 and 37 CFR 3.11. However, the recording of a document pursuant to 37 CFR 3.11 is not a determination by the UPSTO of the

validity of the document per se or the effect that document has on the title to a patent or application. See 37 CFR 3.54. As such, it is not necessary, or desirable, for the USPTO to expunge the purported rescission of the assignment of which petitioner complains. For example, an error in a recorded assignment is not corrected by expunging the previous document, but by simply recording a corrected document. See MPEP 323. Rather, as noted in MPEP 323, it is USPTO policy to maintain a complete history of claimed interests in a given property, and, as such, a recorded assignment document will not be expunged, even if it is subsequently found to be invalid. In re Raney, 24 USPQ2d 1713 (Comm'r Pat. 1992).

Petitions to correct, modify or "expunge" assignment records are granted only if the petitioner can prove that:
(A) the normal corrective procedures outlined in MPEP § 323.01(a) through §323.01(c) will not provide the petitioner with adequate relief; and
(B) the integrity of the assignment records will not be affected by granting the petition.

Even if a petition to "expunge" a document is granted with respect to a particular application or patent, the image of the recorded document will remain in the records of the Assignment Services Division at the same reel and frame number, and the image will appear when someone views that reel and frame number. The Office will, however, delete the links to the application or patent that was the subject of the petition, so that no information about the recorded document will appear when someone searches for that application or patent number in the Assignment Historical Database.

Nevertheless, under the circumstances of this case, petitioner may wish to resubmit the assignment (excluding the confidential information) along with a cover sheet and fee to Assignments Branch for recordation to provide the history of claimed interests in this patent.

As the instant petition is properly treated under 37 CFR 1.182, the $200 fee submitted with the petition has been refunded to petitioner's deposit account. As authorized by petitioner, $400 has been charged to deposit account 19-0741 for consideration of the petition pursuant to 37 CFR 1.182.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

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Suite 500
3000 K Street, NW
Washington, DC 2007

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JUN 22 2009

OFFICE OF PETITIONS

In re Patent No. 6,699,878	:	
Issue Date: March 2, 2004	:	
Application No. 10/265,956	:	DECISION ON PETITION
Filed: October 7, 2002	:	
Inventor: Kyle J. LINDSTROM	:	
Attorney Docket No. 084437-0192		

This is a decision on the renewed petition, filed December 30, 2008, pursuant to 37 CFR § 1.182. The petition is being treated as a petition under 37 CFR §1.182 to invalidate an assignment previously recorded against the above-identified patent.

The petition under 37 CFR § 1.182 is **dismissed**.

Any reply must be submitted within TWO MONTHS from the mail date of this decision. Extensions of time under 37 CFR § 1.136(a) are permitted. This is not a final agency action within the meaning of 5 U.S.C. § 704.

Petitioner has requested that the assignment record be amended. In particular, petitioner requests expungement of purportedly erroneous assignment documents at Reel 019605, Frame 0650. Petitioner submits that the assignment recorded on July 26, 2007 was submitted with an improper document attached and therefore request expungement of the assignment.

As discussed in section 323.01(d) of the Manual of Patent Examining Procedure (MPEP), petitions to correct, modify or "expunge" assignment records are granted only if the petitioner can prove that:

(A) the normal corrective procedures outlined in MPEP § 323.01(a) through § 323.01(c) will not provide the petitioner with adequate relief; and
(B) the integrity of the assignment records will not be affected by granting the petition.

Petitioner has not proven either item A or B.

In regard to item A, there is no evidence of record that petitioner has attempted or considered any of the corrective procedures outlined in MPEP § 323.01(a) through § 323.01(c). Also, there is no explanation of record as to why none of these procedures would provide adequate relief.

Petitioner seeks an extraordinary remedy, properly addressed under 37 CFR § 1.182. The USPTO will not normally resort to an extraordinary remedy under 37 CFR § 1.182 if the rules of practice and the procedures before the USPTO already provide an avenue for the requested relief. See Cantello v. Rasmussen, 220 USPQ 664, (Comm'r Pats. 1982).

As background, the USPTO simply acts in a ministerial capacity in recording documents that have been submitted for recordation. See 35 USC 261 and 37 CFR § 3.11. However, the recording of a document pursuant to 37 CFR § 3.11 is **not** a determination by the USPTO of the validity of the document *per se* or the effect that document has on the title to a patent or application. See 37 CFR § 3.54. Moreover, it is USPTO policy to maintain a complete history of claimed interests in a given property, and, as such, a recorded assignment document will be retained, even if it is subsequently found to be invalid. In re Raney, 24 USPQ2d 1713 (Comm'r Pat. 1992).

As set forth in MPEP 323, an error in a recorded assignment is not corrected by invalidating the previous document, but by simply submitting a "corrective document". The "corrective document" must include 1) a copy of the original assignment document with the corrections made therein. The corrections must be initialed and dated by the party conveying the interest; and 2) a new Recordation Form Cover Sheet (form PTO-1595). The new recordation form cover sheet must identify the submission as a "corrective document" submission and indicate the reel and frame number where the incorrectly recorded assignment document appears. The person signing the new recordation form cover sheet must state that the information provided on the new cover sheet is true and correct and that any copy submitted is a true copy of the original document. The original cover sheet should be submitted with the corrective document. The corrective document will be recorded and given a new reel and frame number and recording date. The recording fee set forth in 37 CFR 1.21(h) is required for each patent application and patent against which the corrective document is being recorded. See MPEP § 302.06. Corrections may be made on the original assignment document, for example, by lining out an incorrect patent or application number in a merger or change of name (see MPEP § 314).

Therefore, the rules of practice and the procedures before the USPTO provide an avenue for the requested relief without relying upon extraordinary measures. As a request for the Office to invalidate an assignment is both extraordinary and contrary to USPTO policy, this petition must be dismissed.

In regard to item B, the statements submitted in support of the petition to expunge fails to establish that expungement will not affect the assignment records in this instance. Petitioner should note that recordation is available for numerous documents related to a patent, not just the assignment of the entire right, title and interest in the patent. See at least MPEP § 313. Moreover, the USPTO does not determine the extent of rights transferred by the assignment papers or any recorded document. Such a determination is made by a court of relevant jurisdiction. No evidence is of record establishing that the assignment was recorded improperly. Absent sufficient evidence to support the requested expungement, the integrity of the assignment records will not be disturbed by the USPTO.

Telephone inquiries concerning this communication should be directed to the undersigned at (571)272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

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In re Application of	:	
Cranford et al.	:	DECISION ON PETITION
Application Number: 10/265981	:	
Filing Date: 10/07/2002	:	
Attorney Docket Number:	:	
RPS920020087US1	:	

This is a decision on the petition under 37 CFR 1.59(b), filed on August 22, 2007, requesting that Comments on the Statement of Reasons for Allowance submitted on August 22, 2007 be expunged.

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

Petitioner asserts that the Comments on Statement of Reasons for Allowance was unintentionally submitted, and that the failure to return it would cause irreparable harm.

Petitioner therefore seeks to have this document expunged from the file.

37 C.F.R. §1.59 sets forth:

§ 1.59 Expungement of information or copy of papers in application file.
(a)
(1) Information in an application will not be expunged, except as provided in paragraph (b) of this section.
(2) Information forming part of the original disclosure (i.e., written specification including the claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under §§ 1.63 and 1.175) will not be expunged from the application file.
(b) An applicant may request that the Office expunge information, other than what is excluded by paragraph (a)(2) of this section, by filing a petition under this paragraph. Any petition to expunge information from an application must include the fee set forth in § 1.17(h) and establish to the satisfaction of the Director that the expungement of the information is appropriate in which case a notice granting the petition for expungement will be provided.
(c) Upon request by an applicant and payment of the fee specified in § 1.19(b), the Office will furnish copies of an application, unless the

application has been disposed of (see §§ 1.53(e), (f) and (g)). The Office cannot provide or certify copies of an application that has been disposed of.

[48 FR 2710, Jan. 20, 1983, effective Feb. 27, 1983; 49 FR 554, Jan. 4, 1984, effective Apr. 1, 1984; 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; 50 FR 23123, May 31, 1985, effective Feb. 11, 1985; revised, 60 FR 20195, Apr. 25, 1995, effective June 8, 1995; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (b) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; para. (b) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; revised, 68 FR 38611, June 30, 2003, effective July 30, 2003]

The matter Petitioner wishes to have expunged does not form part of the original disclosure. Petitioner has included the fee associated with the filing of petition under 37 C.F.R. §1.59 and has established to the satisfaction of the Director that the expungement of this information is appropriate.

As such, the electronic documents which contain these pages have been closed in the Office's Image File Wrapper software viewing program. The paper documents will not be removed from the physical file however, as the Office does not remove papers from paper files which have been scanned.

The general phone number for the Office of Petitions, which should be used for status requests, is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Charles A. Pearson
Director, Office of Petitions

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PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
Shigeru Suzuki	:	
Application No. 10/265,987	:	ON PETITION
Filed: October 7, 2002	:	
Attorney Docket No. SUNSTAF-1013	:	

This is a decision on the petition under 37 CFR 1.313(c), filed April 7, 2005, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 17, 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 3746 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
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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PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application	: DECISION ON
Shigeru Suzuki	: PATENT TERM ADJUSTMENT
Application No. 10/265,987	: AND
Filed: October 7, 2002	: NOTICE OF INTENT
Patent No. 6,913,038	: TO ISSUE
Issued: July 5, 2005	: CERTIFICATE OF CORRECTION
Attorney Docket No. SUNSTAF-1013	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)", filed July 25, 2005. Patentee requests that the patent term adjustment indicated on the patent be corrected from three (3) days to forty-four (44) days.

The request is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **forty-four (44)** days.

On July 5, 2005, the above-identified application matured into U.S. Patent No. 6,913,038. The instant request for reconsideration filed July 25, 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 three (3) days. Patentee states that he should not have been assessed applicant delay of forty-one (41) days for the submission of a paper after the Notice of Allowance, which pointed out that the issue fee had already been paid.

The paper is not identified as one of the papers the filing of which the Director has specifically deemed not to be a failure to engage in reasonable efforts under 37 C.F.R. §1.704(c)(10).[1] Nevertheless, under the circumstances of this case, it is concluded that the filing of this paper is not a failure to engage under 37 C.F.R. §1.704(c)(10). Accordingly, the assessment of forty-one (41) days of applicant delay with respect to this filing is not warranted.

In view thereof, the correct determination of PTA at the time of issuance is **forty-four (44)** days (108 days of PTO delay, reduced by 64 days of applicant delay).

The $200.00 fee set forth in 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 50-0462, as authorized. Patentee's request for a refund of the fee is denied.[2]

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 **forty-four (44)** 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

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[1] See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. 111 (June 26, 2001).

[2] See Comment 1 in Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 1239 OG 14, 65 Fed. Reg. 54366 (Oct. 3 2000) (stating that the fee set forth in 37 C.F.R. 1.18(e) is charged to allow the Office to recover the estimated average cost of treating applications for patent term adjustment, and is not refundable even in the event of Office error).

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COLORADO SPRINGS, CO 80907-7449

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OFFICE OF PETITIONS

In re Application of
James N. Hardage, Jr.
Application No. 10/266,018
Filed: October 7, 2002
Attorney's Docket No. CNTR.2054

ON PETITION

This is a decision on the petition filed October 20, 2005, under 37 CFR 1.10, requesting that the above-identified application be accorded a filing date of October 7, 2002, rather than the presently accorded filing date of October 8, 2002. The petition is treated under 37 CFR 1,10(d).

Petitioners request the earlier filing date on the basis that the application was deposited in Express Mail service on October 7, 2002, pursuant to the requirements of 37 CFR 1.10.

Paragraph (d) of 37 CFR 1.10 states that:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS. Any statement submitted in support of such a showing pursuant to this paragraph must be a verified statement if made by a person other than an employee of the USPS or a practitioner as defined in section 10.1(r) of

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

Although petitioners have not provided a copy of the express mail label, the petition filed October 20, 2005, is accompanied by a statement provided by the United States Postal Service, based on information found in the USPS Internet Track & Confirm Database, that an item bearing Express Mail Label No. EO000297561US was delivered on October 8, 2002 and therefore serves as proof that it had to be deposited prior to October 8, 2002 and that October 8, 2002 could not be the date of deposit and filing date. Thus, the petition is accompanied by the corroborating evidence required by the rule. Accordingly, the petition is **GRANTED**.

In view of the above and given the basis for granting the petition, no petition fees are due and none have been charged.

This matter is being referred to the Office of Initial Patent Examination for correction of the **filing date to October 7, 2002**, not October 8, 2002, and for issuance of a corrected filing receipt.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
James N. Hardage, Jr.
Application No. 10/266,019
Filed: October 7, 2002
Attorney's Docket No. CNTR.2055

ON PETITION

This is a decision on the petition filed October 20, 2005, under 37 CFR 1.10, requesting that the above-identified application be accorded a filing date of October 7, 2002, rather than the presently accorded filing date of October 8, 2002. The petition is treated under 37 CFR 1,10(d).

Petitioners request the earlier filing date on the basis that the application was deposited in Express Mail service on October 7, 2002, pursuant to the requirements of 37 CFR 1.10.

Paragraph (d) of 37 CFR 1.10 states that:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS. Any statement submitted in support of such a showing pursuant to this paragraph must be a verified statement if made by a person other than an employee of the USPS or a practitioner as defined in section 10.1(r) of

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

Although petitioners have not provided a copy of the express mail label, the petition filed October 20, 2005, is accompanied by a statement provided by the United States Postal Service, based on information found in the USPS Internet Track & Confirm Database, that an item bearing Express Mail Label No. EO000297561US was delivered on October 8, 2002 and therefore serves as proof that it had to be deposited prior to October 8, 2002 and that October 8, 2002 could not be the date of deposit and filing date. Thus, the petition is accompanied by the corroborating evidence required by the rule. Accordingly, the petition is **GRANTED**.

In view of the above and given the basis for granting the petition, no petition fees are due and none have been charged.

This matter is being referred to the Office of Initial Patent Examination for correction of the **filing date to October 7, 2002**, not October 8, 2002, and for issuance of a corrected filing receipt.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Paul Shala Henry, et al. :
Application No. 10/266,026 : ON PETITION
Filed: October 7, 2002 :
Attorney Docket No. 2001-0537 :

This is a decision in response to the petition, filed January 22, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed May 17, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 18, 2007. A Notice of Abandonment was mailed on January 3, 2008. In response, on January 22, 2008, the present petition was filed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Gary Monka appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. While a courtesy copy of this decision is being mailed Mr. Monka, all future correspondence will be directed solely to the address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 2616 for appropriate action by the Examiner in the normal course of business on the reply received January 22, 2008.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: GARY H. MONKA
CANAVAN & MONKA, LLC
62 GROVE STREET
SOMERVILLE, NJ 08876

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

In re Application of:
Martin et al.
Serial No.: 10/266,027
Filed: October 7, 2002
Attorney Docket No.: 30661B/N1C1

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR § 1.181(a) filed on February 17, 2005, requesting withdrawal of the holding of abandonment based on the timely filing of a response to the Office action mailed July 29, 2004.

A review of the file history shows that the examiner mailed an Office action to applicants on July 29, 2004, setting a three-month statutory time period for reply. On February 9, 2005, the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicants state that a response to the Office action was timely filed on January 31, 2005, as shown by the Express Mail date executed under 37 CFR §1.10 on the response. Applicants also submit a copy of the post card identifying the papers filed on January 31, 2005 and showing a USPTO date-stamped receipt of January 31, 2005. In view of this evidence, applicants are considered to have submitted a timely reply.

Applicants' petition is **GRANTED**. This application is restored to pending status with the mailing of this decision and will be forwarded to the examiner for consideration of the amendment.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Marianne C. Seidel for

Bruce Kisliuk
Director, Technology Center 1600

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TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6780

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SEP 17 2004

OFFICE OF PETITIONS

In re Application of :
Aquilar Rahman :
Application No. 10/266,030 : DECISION ON PETITION
Filed: October 7, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 217843

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 8, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

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

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

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation,

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. Neither the amendment nor the ADS filed June 3, 2004 states the relationship of PCTApplication No. PCT/US99/14986, filed June 29, 1999, to application No. 09/108,509.

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 applications is required.

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

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

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop PETITION
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to Sherry Brinkley at (703) 305-9220.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner

Frances M. Hicks
Lead, Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner

[1] *Note* 37 CFR 1.121

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CHICAGO, IL 60601-6780

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JUN 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Aquilar Rahman :
Application No. 10/266,030 : DECISION ON PETITION
Filed: October 7, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 217843

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed September 29, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment and concurrently filed Application Data Sheet (ADS).

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 and 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 petition satisfies all of the above requirements.

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 application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and

37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to Sherry D. Brinkley at (571) 272-3204.

This application is being forwarded to Technology Center Art Unit 3612 for appropriate action on the amendment filed September 29, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

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

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

DEC 23 2002

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

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DEC 23 2002

Office of the Director
Group 3600

Knobbe, Martens, Olson & Bear, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

Paper No. 3

In re application of	:	**DECISION ON PETITION**
Frank J. Hodges et al.	:	**TO MAKE SPECIAL**
Application No. 10/266,040	:	**(ACCELERATED**
Filed: October 7, 2002	:	**EXAMINATION)**
For: WHEEL WITH EXTENDED OUTER FLANGE	:	

This is in response to the petition filed on November 22, 2002 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition filed April 29, 2002 fails to adequately meet requirement (E) above. The petition does provide a 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). It is required that applicant provide a more detailed discussion of how the claimed subject matter is patentable over each of these references.

For the above stated reasons, 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: 12/21/02

#5
DW

UNITED STATES PATENT & TRADEMARK OFFICE

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

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OFFICE OF THE DIRECTOR
TC 3600

Knobbe, Martens, Olson & Bear LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

In re application of
Frank J. Hodges et al
Application No. 10/266,040
Filed: October 7, 2002
For: WHEEL WITH EXTENDED OUTER FLANGE

: **DECISION ON RENEWED**
: **PETITION TO MAKE SPECIAL**
: **(ACCELERATED EXAMINATION)**

This is in response to the renewed petition filed on January 8, 2003 and supplemented on February 9, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

A petition to make special was filed on November 22, 2002. That petition was dismissed in a decision mailed December 23, 2002 wherein it was held that the petition lacked a detailed discussion of how the claimed invention is patentable over the cited references. The renewed petition supplies the detailed discussion.

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

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

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

SUMMARY: Petition to Make Special **GRANTED**.

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

kjd: 2/12/03

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MICHAEL L. GOLDMAN, ESQ.
NIXON PEABODY LLP
CLINTON SQUARE, P.O. BOX 31051
ROCHESTER, NY 14603-1051

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DEC 16 2004

OFFICE OF PETITIONS

NOTICE

In re Application of :
Xingen Lei :
Application No. 10/266,041 :
Filed: October 7, 2002 :
Attorney Docket No. 19603/2798(CFR D-2450B) :

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) 272-3208.

Karen Creasy

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

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MICHAEL L. GOLDMAN
NIXON PEABODY LLP
CLINTON SQUARE
P.O. BOX 31051
ROCHESTER, NY 14603-1051

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JUL 07 2005

OFFICE OF PETITIONS

In re Application of :
Xingen Lei :
Application No. 10/266,041 : ON PETITION
Filed: October 7, 2002 :
Attorney Docket No. 19603/2798 (CRFD-2450B)

This is a decision on the petition, filed June 28, 2005 under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 1652 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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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FAIRFIELD CT 06824

In re Application of Christopher A. Hofmeister et al. Application No. 10/266,072 Filed: October 7, 2002 Attorney Docket No.: 390-008764-US (PAR) Title: SUBSTRATE ALIGNMENT SYSTEM	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.181

This is a decision on the petition filed January 22, 2009, 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 due to the October 23, 2008 decision of the Board for Patent Appeals and Interferences which upheld the Examiner's rejections. Accordingly, the above-identified application became abandoned on December 24, 2008, the expiration of the period for seeking judicial review of this decision.[1] A Notice of Abandonment was mailed on January 6, 2009.

With this petition, Petitioner has asserted that the holding of abandonment should be withdrawn due to the fact that no action was required on his part, and has cited to MPEP § 1214.06(II), which indicates that subsequent to the rendering of a decision

1 See MPEP § 1216.

by the Board of Patent Appeals and Interferences, if claims stand allowed;

> [t]he appellant is not required to file a reply. The examiner issues the application or *ex parte* reexamination certificate on the claims which stand allowed. *>For paper files, a< red-ink line should be drawn through the refused claims and the notion "Board Decision" written in the margin in red ink.
>
> If the Board affirms a rejection of claim 1, claim 2 was objected to prior to appeal as being allowable except for its dependency from claim 1 and independent claim 3 is allowed, the examiner should cancel claims 1 and 2 and issue the application or *ex parte* reexamination certificate with claim 3 only.
>
> >If the Board affirms a rejection against independent claim 1, reverses all rejections against dependent claim 2 and claim 3 is allowed, after expiration of the period for further appeal, the examiner should either:
>
> (A) Convert dependent claim 2 into independent form by examiner's amendment, cancel claim 1 in which the rejection was affirmed, and issue the application with claims 2 and 3; or
>
> (B) Set a 1-month time limit in which appellant may rewrite dependent claim 2 in independent form. Extensions of time under 37 CFR 1.136(a) will not be permitted. If no timely reply is received, the examiner will cancel claims 1 and 2 and issue the application with allowed claim 3 only. The following form paragraph may be used where appropriate:

The electronic file has been reviewed, and it is clear that "[c]laims 18, 19, 20, 21, 30, 32-36, 38-41, 45 and 69 have been allowed."[2] Consequently, pursuant to the portion of the MPEP reproduced above, this application should have been remanded to the Examiner for further processing of the allowed claims.

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 no action was necessary on his part.

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 allowed claims can receive further processing in due course.

---

2 Examiner's Answer, page 3.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status**.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[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

3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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OFFICE OF PETITIONS

EDWARDS & ANGELL, LLP
PO BOX 9169
BOSTON, MA 02209

In re Application of
Wayton et al.
Application No. 10/266,097
Filed: October 6, 2002
Attorney Docket No. 51248

ON PETITION

This decision concerns the May 13, 2003 (Certificate of Mailing date May 9, 2003) petition under 37 CFR 1.10(d).

The petition is **DISMISSED.**

The petition requests a filing date of September 26, 2002 rather than the presently accorded filing date of October 6, 2002, on the basis that the application was deposited on September 26, 2002 in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" ("Express Mail") service pursuant to the requirements of 37 CFR 1.10.

37 CFR 1.10(d) requires, *inter alia*,[1] a showing, establishing that the requested filing date was the date of deposit of the application in the "Express Mail" service prior to the last scheduled pickup for that day, and, corroborated by evidence from the USPS.[2]

The Office notes the following:

(1) The application transmittal contains a "Certification under 37 CFR 1.10" indicating that the application would be deposited in the "Express Mail" on September 26, 2002 under mailing label number "EK928790691US". However, the petition has not included a true copy of this mailing label. The signed Certificate of Mailing only suggests an intended deposit of the application papers in the "Express Mail" service on that day.

(2) The Office has verified from the USPS database available to the PTO that the package mailed under this label number had been **accepted** by the USPS on **October 6, 2002 at 3:20pm and delivered to the PTO on October 8, 2002 at 10:48am.**

In view of the above, the requested filing date of September 26, 2002 is **not** corroborated by evidence from the USPS as the actual date of deposit in the USPS "Express Mail." Moreover, the Office is not authorized, nor has any basis, to contradict the information provided by the USPS. The petition is thus dismissed.

---

[1] 37 CFR 1.10(d)(1) requires that the petition be filed promptly after the person becomes aware of the incorrect "date-in" entry by the USPS. This requirement is considered met even though a Notice to File Missing Parts of Nonprovisional Application indicating an 10/6/02 filing date was mailed on 11/7/02, and the instant petition was not filed until 6 months later. Also, as required by 37 CFR 1.10(d)(2), the "Express Mail" mailing label number is on the application transmittal.

[2] 37 CFR 1.10(d)(3); MPEP section 513 (Rev. 1, Feb. 2003).

No petition fee is owed. The $130 petition fee submitted with the petition has been credited to Deposit Account No. 04-1105 as authorized in the petition.

However, the petition encloses a $1,450 payment for a 4-month extension of time for responding to the November 7, 2002 "Notice to File Missing Parts of Nonprovisional Application"("11/7/02 Notice") when a 5-month extension of time ($1,970) is required. The deficiency of $520 has been charged to the above deposit account.

Finally, receipt with the petition of the following is acknowledged: the $750 basic filing fee and the $252 for 3 independent claims in excess of 3.

The application is being returned to the Office of Initial Patent Examination for further processing with a **filing date of October 6, 2002, and for verification that all missing items noted in the 11/7/02 Notice have been submitted timely.**[3]

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

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[3] The 11/7/02 Notice requested other extra claims fees.

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JUN 14 2005

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

In re Application of	:
Sanford D. Markowitz	:
Serial No.: 10/266,103	: PETITION DECISION
Filed: October 7, 2002	:
Attorney Docket No.: CWRU-P01-008	:

This is in response to the petition under 37 CFR 1.181, filed July 2, 2004, requesting withdrawal of abandonment based on timely filing of a reply. The delay in acting on this petition is regretted.

A review of the file history shows that the Office mailed a Notice to Comply with Requirements for Application Containing Nucleotide Sequences to applicants on January 24, 2003, setting a two month period for reply. Applicants replied on February 10, 2003, indicating that compliance was effected by electronic filing on December 30, 2002. On June 22, 2004, a Notice of Abandonment was mailed to applicants indicating failure to comply. This petition was filed on July 2, 2004, requesting withdrawal of the Notice of Abandonment. A Notice withdrawing the Notice of Abandonment was mailed to applicants on August 25, 2004. In view thereof, the petition request is now moot.

The petition is **DISMISSED**.

The application will be forwarded to the examiner for consideration.

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

Jasemine C. Chambers
Director, Technology Center 1600

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FEB 05 2010

RALPH E. JOCKE
Walker & Jocke.
231 South Broadway
Medina, Ohio 44256

In re Application of: Lyle P. Blosser, et al.	:	DECISION ON PETITION
Application No. 10/266,120	:	FOR WITHDRAWAL OF
Filed: October 7, 2002	:	THE NOTICE OF
For: AUTOMATED TELLER MACHINE	:	NON-COMPLIANCE
PRINTER SYSTEM AND METHOD	:	UNDER 37 CFR 1.181

This is in response to applicant's petition under 37 CFR 1.181 filed December 13, 2006, requesting withdrawal of the Notification of Non-Compliant Appeal Brief dated November 17, 2006 and to correct the filling date associated with the appeal brief filed on January 23, 2006.

The petition is **DISMISSED.**

A review of the file reveals that an allowance action was mailed on May 01, 2009 and that the instant application issued on August 25, 2009 as U.S. Patent No. 7,580,892. Therefore, as the appeal proceeding has been terminated; the petition to withdraw the Notification of Non-Compliant Appeal Brief is moot.

Applicant requests that the filing date of the appeal brief be changed from January 24, 2006 to January 23, 2006. However, while applicant mailed the appeal brief on January 23, 2006, the Office did not receive it until January 24, 2006. Therefore, it is the Office's position that January 24, 2006 is the proper filing date for the appeal brief. However, since the instant application has been issued on August 25, 2009 as U.S. Patent No. 7,580,892, and the appeal proceeding has been terminated; the issue of the filling date associated with the appeal brief is moot.

Any questions regarding this decision should be directed to Calvin Hewitt at (571) 272-6709.

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

ch/lm: 1/21/10

LM

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LEV PRIBYTKOV
355 THOMAS BLVD. 3F
ORANGE, NJ 07050-4120

June 4, 2004

In re application:	Pribytkov	:DECISION ON PETITION UNDER
Serial No.	10/266,134	: 37 CFR 1.181
Filing Date :	March 26, 2003	

For: New Method of Increasing Efficiency Conversion Kinetic Energy Working Substance in Linear and Rotary Force

This is in response to applicant's petition to withdraw the finality of the Office action mailed on March 9, 2004.

The petition is GRANTED.

On June 20, 2003 an Office action was mailed rejecting some of the claims over a reference to Thorson.

On November 14, 2003, applicant responded and included within the response an indication that the references were not sent with the action. It is noted that the Notice of References Cited (PTO-892) was not indicated as an attachment to the Office action of June 20, 2003.

On March 9, 2004 a final rejection was mailed with a PTO-892 citing additional references. However there is no indication that the PTO-892 with the original references were sent.

On April 21, 2004, the instant petition was filed.

On April 23, 2004, a copy of the references and the PTO-892 from the June 20, 2003 Office action were mailed to the applicant.

Applicant indicates in his petition that he was unable to adequately respond to the Office action mailed on June 20, 2003 because the reference or the citation of the patent number of the reference was not included in the Office action.

A review of the Office action reveals that the examiner did not check the appropriate box on the PTOL-326 form referring to the PTO-892 as an attachment. Therefore, it is reasonable to believe that the attachment was not mailed with the action. Furthermore, other than the patentee's name, the examiner did not indicate a patent number in the Office action.

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However, a copies of the missing references were mailed to applicant on April 23, 2004.

In view of the above, the finality of the Office action mailed on March 9, 2004 is hereby withdrawn. However, the Office action mailed March 9, 2004 remains outstanding as a non-final Office action. The period for response to that action has been reset to begin on the date of the mailing of the missing references, April 20, 2004.

Any comments or concerns related to this decision should be forwarded to Michael J. Carone at 703 306-4198.

Donald T. Hajec
Director, TC3600
703 306-4180

Michael Carone
Supervisory Patent Examiner
TC 3600
703 306-4198

Best Available Copy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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FROM DIRECTORS OFFICE

JAN 21 2005

TECHNOLOGY CENTER 3600

Lev Pribytkov
355 Thomas Blvd, 3F
Orange, NJ 07050-4120

In re Application of
Pribytkov
Application No.: 10/266,134
Filed: March 26, 2003
For: NEW METHOD OF INCREASING EFFICIENCY CONVERSTION KINETIC ENERGY WORKING SUBSTANCE IN LINEAR AND ROTARY FORCE

DECISION ON PETITION REGARDING REQUEST TO WITHDRAW FINALITY UNDER 37 CFR 1.181

This is in response to applicant's petition under 37 CFR 1.181 filed December 21, 2004 requesting withdrawal of the finality of the Office action mailed November 4, 2004 as being premature.

The petition is **DENIED.**

Applicant alleges that the final rejection mailed November 4, 2004 is premature because the Office action fails to include a copy of the Deschamplain and Stopplecamp references cited on the Notice of References Cited (PTO-892). Applicant indicates that the examiner failed to provide any information about where and how to access the references.

In the Official Gazette (O.G.) Notice published December 23, 2003, the Office indicated its plan to cease supplying copies of cited U.S. patent references with Office actions. The O.G. Notice also outlined a pilot to evaluate the alternative of providing electronic access to such U.S. patent references. The O.G. Notice indicated that on December 1, 2003 the Office made available a new feature, E-Patent Reference, in the Office's private PAIR system, to allow more convenient downloading of U.S. patents and U.S. patent application publications. For those applicants that don't already have access to private PAIR, the O.G. Notice also outlined the steps to use the E-Patent Reference feature, including installing no-cost software (supplied by the Office) required to access private PAIR and E-Patent Reference feature. The O.G. Notice also referred applicants to the Electronic Business Center at http://www.uspto.gov/ebc or 1-866-217-9197.

In a second O.G. Notice published May 18, 2004, the Office indicated its plan to deploy the full E-patent Reference program starting in June 2004. In accordance with the schedule outlined in the O.G. Notice, paper copies of cited U.S. patents and U.S. patent application publications will cease to be mailed to applicants with Office actions in the indicated Technology Centers. The

O.G. Notice indicated that the E-patent Reference program would be fully deployed in Technology Center 3600 in July 2004.

As an alternate source, all U.S. patents and patent application publications are available on the USPTO website (www.uspto.gov), from the Office of Public Records and from commercial sources.

In view of the above, the finality of the Office action mailed November 4, 2004 will not be withdrawn. The period for response to that action continues to run from the mailing date of the action.

Any comments or concerns related to this decision should be forwarded to Teri P. Luu at (703) 305-7421.

Donald T. Hajec, Director
Technology Center 3600
(703) 306-4180

DH/tl: 12/27/2004
RL

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FROM DIRECTORS OFFICE

APR 15 2005

TECHNOLOGY CENTER 3600

Lev Pribytkov
355 Thomas Blv. 3F
Orange, NJ 07050-4120

In re Application of	:	
Lev Pribytkov	:	DECISION ON PETITION
Application No. 10/266,134	:	UNDER 37 CFR 1.181
Filed: March 26, 2003	:	TO REVIEW EXAMINER'S
For: NEW METHOD OF INCREASING	:	REFUSAL TO ENTER
EFFICIENCY CONVERSION KINETIC	:	AMENDMENT
ENERGY WORKING SUBSTANCE IN	:	
LINEAR AND ROTARY FORCE	:	

This is in response to applicant's petition under 37 CFR 1.181 filed March 19, 2005 requesting Supervisory review of the Examiner's decision to deny entry of the amendment filed after Final rejection received January 3, 2005 and the supplemental amendment filed after Final rejection received January 24, 2005.

The petition is **DENIED.**

In the petition, applicant alleges that the amendments filed after Final rejection addressed all grounds of rejection in the Final action and therefore, at least, should place the application in better condition for Appeal before the Board of Appeals.

A review of the record reveals that the claims were rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph. Specifically, the claims are narrative in form and replete with indefinite and functional or operational language. The claims are also replete with alternative and indefinite groupings since each place that an element is being defined as coming from a group, it is not clear if one or more groups can or is being selected. In addition, the combination of such a large number of groups creates indefiniteness within itself, since it is unclear that all possible combinations of all groups can be combined together in a working manner. Additionally, the claims were rejected, as best understood, under 35 U.S.C. 102 (b) as being anticipated by one of Thornson or Robinson or Rasmunsson.

In the Amendment filed after Final rejection received January 3, 2005, applicant proposed changes to some of claims. The proposed amendment raised new issues that would require further consideration and/or search. Specifically, the additional limitations "feasible" and "suitable" would require further consideration and search. Therefore, the proposed amendments to the claims would not be entered. A Notice to this affect was indicated in the Advisory Action

mailed January 12, 2005. Applicant's proposed amendment presented in the Supplemental Amendment filed after Final rejection received January 24, 2005 also raises new issues that would require further consideration and/or search. In the Advisory action mailed February 17, 2005, the examiner indicated that the amendment attempts to amend claim 47, but this claim is not presently entered into the application, because the Amendment filed after Final rejection received January 3, 2005 was not entered.

Since the proposed Amendments filed after Final rejection raised new issues that would require further consideration and/or search, the Amendments were properly denied entry. Furthermore, they were not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.

Accordingly, the petition is **DENIED.**

The application remains under Final rejection. Applicant is reminded that the shortened statutory period of three months for response expired on February 4, 2005 and that the filing of a petition does not stay the period for response. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Donald T. Hajec, Director
Patent Technology Center 3600
(571) 272-5150

DH/tl: 4/4/05

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PETER VAN DIEPEN
1348 W PENDER STREET
VANCOUVER V6E4T-1 CA CANADA

COPY MAILED

MAR 1 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Peter Van Diepen	:	
Application No. 10/266,141	:	ON PETITION
Filed: October 8, 2002	:	
Attorney Docket No. None	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

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

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

A petition fee of $660 was submitted instead of the required fee of $685 at the time of filing of the instant petition. Petitioner should be aware of the fee increase which went into effect on December 8, 2004. The current fee at the small entity rate is $750 for a petition to revive under 37 CFR 1.137(b).

---

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

By hand: Customer Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

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

Karen Creasy

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

DAC

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APR 1 8 2005

PATENT & TRADEMARK OFFICE

PETER VAN DIEPEN
1348 W PENDER STREET
VANCOUVER V6E4T-1 CA CANADA

COPY MAILED

MAR 1 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Peter Van Diepen	:	
Application No. 10/266,141	:	ON PETITION
Filed: October 8, 2002	:	
Attorney Docket No. None	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

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

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

A petition fee of $660 was submitted instead of the required fee of $685 at the time of filing of the instant petition. Petitioner should be aware of the fee increase which went into effect on December 8, 2004. The current fee at the small entity rate is $750 for a petition to revive under 37 CFR 1.137(b).

---

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

Adjustment date: 04/19/2005 EAREGAY1
11/19/2004 CNGUYEN 00000010 10266141
01 FC:1999 -660.00 OP

04/19/2005 EAREGAY1 00000009 10266141
01 FC:2453 750.00 OP

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

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

By hand: Customer Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

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

Karen Creasy

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

OIPE JC106
APR 18 2005
PATENT & TRADEMARK OFFICE

Peter van Diepen
1348 W. Pender Street
Vancouver, B.C., V6E4T1
Canada

Ms. Karen Creasy
Mail Stop PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
USA

11 March 2005

Re. Application No. 10/266,141 filed 08 October 2002
US Patent and Trademark Office letter dated 15 March 2005 (copy enclosed)

Dear Madam,

Referring to your letter of 15 March 2005, and to our subsequent phone conversation, please find, attached, a money order for $90.oo, the amount being the balance between previously sent $660 and the present fee of $750 for a petition to revive under 37 CFR 1.137(b).

I hereby request a reconsideration of my petition to revive the reference application. As stated in my petition, the delay in answering the examiner's correspondence, was entirely unintentional. Initially, a rare occurrence of Canada Post not delivering US Patent Office's correspondence to my previous P.O. Box address, caused the delay, later compounded by my change of address.

I trust you will recognize that I do not have the benefit of guidance and advice of a patent attorney; a service I cannot afford. Therefore, while I do attempt to prosecute my application with due diligence, your assistance is most appreciated. Should your consideration of my petition to revive the application be not possible for some other reason (e.g., additional forms required, or similar, despite the fact that on the phone you did advise that this letter and the balance of the fee will suffice), I will appreciate a brief call to (604) 506-3630, rather than another delay.

Sincerely

Peter van Diepen
Vancouver, Canada
604.5063630

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COMMISSIONER FOR PATENTS
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MAIL

Paper #3

APR 07 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Cari & Offenberg
494 Broadway
Newport RI 02840

In re Application of Jonathan C. Riley Application No. 10/266,214 Filed: October 8, 2002 For: BIOMETRIC IN-FLIGHT AIRCRAFT FLIGHT CREW AUTHENTICATION SYSTEM	DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition to make special filed February 17, 2004, under 37 C.F.R. §102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism, to make the above-identified application special.

M.P.E.P. §708.02 (XI) sets forth the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 102(d).

M.P.E.P. §708.02 (XI) INVENTIONS FOR COUNTERING TERRORISM
In view of the importance of developing technologies for countering terrorism and the desirability of prompt disclosure of advances made in these fields, the U.S. Patent and Trademark Office will accord "special" status to patent applications relating to counter-terrorism inventions. International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

Petitioner's submission meets the criteria set out above with respect to countering terrorism as in M.P.E.P. § 708.02(XI). Accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for expedited examination.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

Wood, Herron & Evans, LLP
2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202

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APR 17 2006
OFFICE OF PETITIONS

In re Application of	:
Jeter	:
Application No. 10/266,229	: DECISION GRANTING PETITION
Filed: October 8, 2002	:
Attorney Docket No. NOR-1024A	:

This Office action is in response to applicant's submission of "PETITION TO CORRECT PATENT TERM ADJUSTMENT UNDER 37 CFR1.705(b)" timely[1] filed on Feb. 2, 2006 requesting that the Office adjust the determination at the time of the notice of allowance from a determination of three hundred and ninety-two (392) days to a determination of four hundred and twenty-four (424) days.

Applicants request is **GRANTED**. The Office will adjust the PTA determination to reflect a determination of FOUR HUNDRED AND TWENTY-FOUR (424) DAYS. The Office will adjust the PTA determination reflected in PAIR.

Applicants assert that the Office erred in the assessment of a thirty-two (32)day reduction for the submission reply to a non-final rejection on February 4, 2005. Applicants assert that the Office erred in assessing the reduction under 37 CFR 1.704(b) because the Office restarted the response date to begin on November 4, 2003 rather than October 03, 2003. Applicants do not dispute the four hundred hundred and twenty-nine (429) days of Office delay pursuant to 37 CFR 1.702(a)(1) nor do applicants dispute the five-day reduction for applicant delay pursuant to 37 CFR 1.704(b).

Applicants' arguments are persuasive. The record reflects that the Office restarted the response period to begin on November 4, 2003. Accordingly, applicant had until February 4, 2004 to respond without a incurring a PTA reduction under 37 CFR 1.704(b). Applicant filed their response to the non-final rejection on February 4, 2004 and accordingly met the requirement of 37 CFR 1.704(b). Accordingly, the thirty-two day reduction in patent term is an error. Overall,

[1]Issue fee paid on 2/2/2006.

the Office delayed by a period of 429 days and applicant delayed by a period of 5 days and therefore the correct amount of PTA at the time of the mailing of the notice of allowance is four-hundred and twenty-four (424) days.

After the mailing of this Office action, the application will be forwarded to the Office of Patent Publications for a prompt issuance of the patent. Any delays in the Office failure to issue the application within four months of the payment of the issue fee will be reflected in the issue notification letter that is mailed to applicants approximately three weeks prior to issuance

The Office has assessed the $200.00 fee under 37 CFR 1.18(e). No additional fees are required by this decision.

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

Kery Fries

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

CC Adjusted PAIR calculation

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060801

DATE : August 1, 2006

TO SPE OF : ART UNIT 2837

SUBJECT : Request for Certificate of Correction on Patent No.: 6,952,088

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:

LINCOLN DONOVAN
SUPERVISORY PATENT EXAMINER

SPE: Lincoln Donovan **Art Unit** 2837

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,952,088 B2

APPLICATION NO.: 10/266,238

ISSUE DATE : October 4, 2005

INVENTOR(S) : Arthur E. Woodward; Prakash B. Shahi; Ralph D. Furmanek

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:

Column 10, Line 51:
delete "voltz/hertz" and insert --volts/hertz--.

Column 14, Line 6:
delete "tooless" and insert --toolless--.

Claim 24, Column 24, Line 42:
delete the sentence beginning with "of a blower" to and including "element being", and insert --of a blower housing, the lid element being--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Monte R. Rhodes
Locke Liddell & Sapp LLP
3400 JPMorgan Chase Tower, 600 Travis Street, Houston, TX 77002-3095

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

OCT 25 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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STEVEN F. WEINSTOCK
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

COPY MAILED

MAY 25 2004

OFFICE OF PETITIONS

In re Application of	:	
Winn et al.	:	
Application No. 10/266,270	:	ON PETITION
Filed: October 8, 2002	:	
Attorney Docket No. 5594.US.C2	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 29, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the restriction requirement mailed July 24, 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 August 25, 2003. A Notice of Abandonment was mailed on April 5, 2004.

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

This matter is now being forwarded to Technology Center 1600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Malloy & Malloy, P. A.
2800 S. W. Third Avenue
Historic Coral Way
Miami, FL 33129

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SEP 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Johan Skjellerup, et al.	:	
Application No. 10/266,282	:	DECISION ON PETITION
Filed: October 7, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 1.164.02	:	

This is a decision on the petition, filed July 1, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on October 6, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

This application is being referred to Technology Center Art Unit 2612 for examination in due course.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

MAILED

JUL 0 2 2004

Technology Center 2100

In re Application of:
William E. SOBEL
Application No. 10/266,340
Filed: October 7, 2002
For: PERFORMANCE OF MALICIOUS COMPUTER CODE DETECTION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed June 3, 2004.

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

The request is **GRANTED.**

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

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

cc: Edward J. Radlo
Sonnenschein Nath & Rosenthal LLP
685 Market Street
6th Floor
San Francisco, CA 94105

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OWENS CORNING
2790 COLUMBUS ROAD
GRANVILLE OH 43023

COPY MAILED

MAR 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Miller et al.	:	
Application No. 10/266,348	:	DECISION
Filed: October 8, 2002	:	ON PETITION
Attorney Docket No. 25050A	:	

This is in response to the "Petition for Revival of an Application for Patent Abandoned Unavoidably under 37 CFR 1.137(a)," filed May 7, 2005.

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 C.F.R. § 1.137(a)." Extensions of time are permitted under § 1.136(a).

The above-identified application became abandoned for failure to timely file a proper response to the non-final Office action mailed June 17, 2004. This restriction requirement set a shortened statutory period for reply of one (1) month. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 18, 2004. A Notice of Abandonment was mailed on February 10, 2005.

The instant petition, including the required response in the form of an election and payment of the petition fee, was promptly filed. Petitioner maintains that applicants did not receive a copy of the Restriction Requirement mailed June 17, 2004. Petitioner states that on February 28, 2005 (after being advised by the examiner that the application was abandoned) applicants retrieved the restriction requirement from the PAIR system.

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 set forth in 37 C.F.R. § 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 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 instant petition fails to meet requirement (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. 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 review of the application file reveals no irregularities in the mailing of the Restriction Requirement. Thus, there is a strong presumption that the correspondence was properly mailed to the applicants at the correspondence address of record. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner's showing of non-receipt is not adequate. The showing includes a statement by the practitioner and a copy of the front of the file jacket. However, the practitioner does not explicitly assert that a search of the file jacket and docket records indicates that the communication was not received. More importantly, the petition does not include a docket record showing where the non-received Office communication would have been entered had it been received and docketed record[1].

Having not made an adequate showing of non-receipt of the Office action, the petition cannot be granted under §1.137(a).

Alternative Venue

While the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a

---

[1] For example, if a three-month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OWENS CORNING
2790 COLUMBUS ROAD
GRANVILLE OH 43023

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MAY 20 2005

OFFICE OF PETITIONS

In re Application of	:	
Miller et al.	:	
Application No. 10/266,348	:	DECISION
Filed: October 8, 2002	:	ON PETITION
Attorney Docket No. 25050A	:	

This is a decision on the RENEWED PETITION UNDER 37 C.F.R. § 1.137(a) filed May 8, 2005.

The petition under § 1.137(a) is **GRANTED**.

The above-identified application became abandoned effective July 18, 2004 for failure to timely file a proper response to the non-final Office action mailed June 17, 2004. A Notice of Abandonment was mailed on February 10, 2005. By decision mailed March 28, 2005, the initial petition under § 1.137(a) filed March 7, 2005 was dismissed. Petitioner alleged unavoidable delay based on non-receipt of the Office action but failed to make an adequate showing of non-receipt.

On instant renewed petition, petitioner cured the deficiency in their showing of non-receipt. Having now met all of the requirements of § 1.137(a), the petition is now grantable.

Technology Center AU 1771 has been advised of this decision. The application has, thereby, been forwarded to the examiner for consideration of the election previously filed March 7, 2005.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/16/06

TO SPE OF : ART UNIT 1618

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/266363** No.: **7074431**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

MICHAEL G. HARTLEY
SUPERVISORY PATENT EXAMINER

SPE

1618
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

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

MAILED

JUN 2 4 2004

Technology Center 2100

In re Application of:
Cary NACHENBERG, et al.
Application No. 10/266,365
Filed: October 7, 2002
For: SELECTIVE DETECTION OF MALICIOUS COMPUTER CODE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed June 7, 2004.

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

The request is **GRANTED.**

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard
7th Floor
Los Angeles, CA 90025

MAIL

MAR 2 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Chris LALONDE, et al.
Application No.: 10/266,384
Filed: October 7, 2002
For: METHOD AND APPARATUS FOR AUTHENTICATING ELECTRONIC MAIL

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed November 23, 2004.

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

The request is **GRANTED**.

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

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

cc: Schwegman, Lundberg, Woessner & Kluth, P.A.
121 South Eighth Street
1600 TCF Tower
Minneapolis, MN 55402

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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Mailed APR 16 2004

Paper No.

In re Application of	:	
Violi et al.	:	
Serial Number: 10/266,390	:	DECISION ON
Filed: October 8, 2002	:	PETITION UNDER
For: COLORED MULTI-LAYER FOOD AND PRODUCT KIT	:	M.P.E.P. 708.02,II

This is in response to the petition filed, November 20, 2002, requesting that the above-identified application be granted Special Status under Section 708.02, II of the M.P.E.P. and 37 CFR 1.102(d) (fee paid).

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

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Lorri W. Cooper
Jones, Day, Reavis & Pogue
North Point
901 Lakeside Avenue
Cleveland OH 44114

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 14

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO IL 60661

COPY MAILED

MAY 1 0 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Jiwan P. Palta et al	:	
Application No. 10/266,393	:	
Filed: October 8, 2002	:	
Attorney Docket No. WIS4987P0091US	:	

This is a decision on the petition, filed May 6, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 20, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1616 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/266,411	10/08/2002	John B. Putman	TPI.P.0006	1899

26360 7590 03/03/2008
RENNER KENNER GREIVE BOBAK TAYLOR & WEBER
FIRST NATIONAL TOWER FOURTH FLOOR
106 S. MAIN STREET
AKRON, OH 44308

EXAMINER
MERLINO, AMANDA H

ART UNIT	PAPER NUMBER
2877	

MAIL DATE	DELIVERY MODE
03/03/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 20080227

MAILED FROM DIRECTORS OFFICE
MAR 3 2008
TECHNOLOGY CENTER 2800

RENNER KENNER GREIVE BOBAK TAYLOR & WEBER
FIRST NATIONAL TOWER FOURTH FLOOR
106 S. MAIN STREET
AKRON OH 44308

In re Application of:	:
Putman ET AL.	: PETITION FOR CORRECTION OF
Serial No.: 10/266,411	: INVENTORSHIP
Patent No.: 6,775,004	: UNDER 37 CFR § 1.324
Filed: October 8, 2002	:
Attorney Docket No.: TPI.P.0006	

This is a decision on the petition filed May 3, 2004 to correct inventorship under 37 CFR 1.48(a), which is being considered as a petition under 37 CFR 1.324 due to the issuance of the application.

The petition is GRANTED.

In view of the papers filed May 3, 2004, it has been found that this non-provisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.324. The inventorship of this application has been changed by ADDING the name:

Matthew C. Putnam

Therefore the inventorship is as listed below:

John B. Putnam
Matthew C. Putnam

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20082802

DATE : February 22, 2008

TO SPE OF: ART UNIT 2877 SPE Gregory J. Toatley

SUBJECT: Request for Certificate of Correction for Appl. No.: 10/266,411 Patent No.: 6,775,004 B1

Please respond to this request for 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**.

Should the Request for Certificate of Correction filed August 30, 2004 been approved? The certificate of correction request involved the inventorship set forth in the patent. Petition for Correction of Inventorship was filed May 3, 2004, but no decision was made concerning the addition of Matthew C. Putman. The examiner of record/supervisory patent examiner is required to make decision on addition and/or deletion of inventors. A certificate of correction was issued on February 26, 2008 adding inventor, Matthew C. Putman, without prior approval from appropriate official. If petition to add inventor should not have been entered/approved a certificate vacating certificate of correction issued will be prepared.

Thank You For Your Assistance

Antonio Johnson
Certificates of Correction Branch
703-308-9390 ext. 111

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:
The petition dated 5/3/04 has been granted & the decision has been mailed to the applicant. PALM reflects the petition & the CoC is approved.

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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RICHARD J. VELTMAN, ESQ.
THE BLACK & DECKER CORPORATION
701 EAST JOPPA ROAD -TW199
TOWSON, MD 21286

COPY MAILED

JUN 28 2005

OFFICE OF PETITIONS

In re Application of :
Piacenti, et al. :
Application No. 10/266,418 : ON PETITION
Filed: October 8, 2002 :
Attorney Docket No. PK5518A :

This is a decision on the petition under 37 CFR 1.137(b), filed May 31, 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 August 13, 2004. A three month extension of time having been obtained pursuant to the provisions of 37 CFR 1.136(a), the date of abandonment of this application is February 14, 2005. A Notice of Abandonment was mailed on April 28, 2005.

Please note, the application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03.

Furthermore, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted.

A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The file is being forwarded to Technology Center 3600, for review of the RCE, filed May 31, 2005, *in due course*.

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

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

cc.
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

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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FEB 19 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

FLEIT, KAIN, GIBBONS, GUTMAN, BONGINI
& BIANCO P.L.
ONE BOCA COMMERCE CENTER
551 NORTHWEST 77TH STREET, SUITE 111
BOCA RATON, FL 33487

Paper No. 6

In re application of
Robert K. Birmingham
Application No. 10/266,438 :
Filed: October 7, 2002 :
For: SYSTEM AND METHOD FOR ADVERTISING :
PRODUCTS ON A COMPUTER READABLE
REMOVABLE MEDIUM

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on January 29, 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.

As to condition A) the attorneys associated with Customer Number 23334 do not correspond with those named in the Power of Attorney in the declaration, thereby creating confusion as to who is withdrawing. Since the declaration listed the names of those given power of attorney, and power was not given by customer number, it is suggested that the request be resubmitted and that such request specifically state that the signing attorney is signing on behalf of all attorneys of record in this application.

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

KJD/cps: 2/15/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 11 2005

MAILED

JAN 11 2005
OFFICE OF THE DIRECTOR
TC 3600

Robert Birmingham
5070 S.E. Lisbon Circle
Stuart, FL 34997

In re application of
Robert K. Birmingham .
Application No. 10/266,438 :
Filed: October 7, 2002 :
For: SYSTEM AND METHOD ADVERTISING : PRODUCTS AND SERVICES ON COMPUTER READABLE REMOVABLE MEDIUM

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on February 26, 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 **DISMISSED as MOOT**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is dismissed as moot because the power of attorney has already been withdrawn as per the Notice to that effect mailed June 4, 2004.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121
Facsimile No.: (703) 605-0586

RAR/dcg: 11/18/04

cc: Fleit, Kain, Gibbons,
Gutman, Bongini & Bianco, P.L.
One Boca Commerce Center
551 Northwest 77th Street, Suite 111
Boca Raton, FL 33487

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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MAY 28 2010

OFFICE OF PETITIONS

GREATBATCH LTD.
10,000 WEHRLE DRIVE
CLARENCE, NY 14031

In re Application of Andre Lechot, et al. Application No. 10/266,442 Filed: October 8, 2001 Attorney Docket No.: PRE-SA-0052	: : : : :	ON PETITION

This is a decision in response to the petition, filed March 26, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is DISMISSED AS MOOT.

A review of the record reveals that a final Office action was mailed on June 9, 2009. While the response period was set to expire on September 9, 2009, extensions of time could be purchased pursuant to 37 CFR 1.136 up to and including December 9, 2009. It is noted that a Request for Continued Examination (RCE) was filed on September 11, 2009, followed by an amendment and fee for a 2-month extension of time on October 20, 2009. Since the collective responses were submitted prior to the maximum extendable response period and included an appropriate extension of time (and fee), no abandonment existed.

In view of the above, petitioner is entitled to a refund of the $810 fee included with this petition. Further, as petitioner is entitled to small entity benefits, the $405 overpaid for the RCE on September 11, 2009 and the $245 overpaid for the two month extension of time on October 20, 2009 are also subject to refund. Therefore, $1,460 is being refunded in the form of a credit counsel's deposit account as authorized.

This application is being referred to Technology Center AU 3738 for processing of the RCE in accordance with 37 CFR 1.114.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 04-03

Paper No. 5

LUEDEKA, NEELY & GRAHAM, P.C.
P O BOX 1871
KNOXVILLE TN 37901

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APR 2 9 2003

OFFICE OF PETITIONS

In re Application of	:
Brown, Lute, Robinson, Skladany,	: DECISION REFUSING STATUS
and Nelson	: UNDER 37 CFR 1.47(a)
Application No. 10/266,467	:
Filed: 8 October, 2002	:
Atty Docket No. 54734.C1	:

This is in response to the petition filed under 37 CFR 1.47(a)[1] on 21 January, 2003.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Christopher Nelson, 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 established, via the declaration of registered patent attorney John J. Jones, that a copy of the application papers were sent to joint inventor East at his business address, but joint inventor failed to sign and return the declaration naming him as a joint inventor along with Richard A. Brown, James Lute, Dave Robinson, and George Skladany.

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.

[1]It is noted that the present petition was originally filed in prior Application No. 09/300,500, filed on 28 April, 1999, of which the present application is a continuation and which uses the same declaration. The petition filed in the parent application was apparently never treated. Nevertheless, it is appropriate to treat the petition filed in the present application.

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

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 04-03

Christopher Nelson
1725 Foxfield Drive
Castle Rock, CO 80104

COPY MAILED

APR 2 9 2003

OFFICE OF PETITIONS

In re Application of
Brown et al.
Application No. 10/266,467
Filed: 8 October, 2002
For: METHOD OF USING PULSED OZONE TO TREAT SOILS CONTAINING ORGANIC CONTAMINANTS

Dear Mr. Nelson:

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

LUEDEKA, NEELY & GRAHAM, P.C.
P O BOX 1871
KNOXVILLE TN 37901

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 05/06/2010

Applicant	: Shinya Masunaga	: DECISION ON REQUEST FOR
Patent Number	: 7630303	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/266,473	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/08/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1274** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

In re Application of
Tadahiro Ohmi et al.
Application No. 10/266,480
Filed: October 8, 2002
Attorney Docket No. 8075-1042

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b),[1] filed June 28, 2006, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed March 15, 2004. A shortened statutory period of three months was set for replying Final Office Action. Petitioners were notified in an Advisory Action mailed October 1, 2004 that a response filed August 30, 2004 with a three month extension of time request, did not place the application in condition for allowance. Thus, the application became abandoned June 16, 2004. Accordingly, a Notice of Abandonment was mailed June 14, 2005.

---

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

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

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

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

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

In response to the Final Office Action mailed March 15, 2004, petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 1725 for processing of the RCE and submission.

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

Patricia Faison-Ball

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
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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
10/266,480	10/08/2002	Tadahiro Ohmi	FUK-99

CONFIRMATION NO. 9474

OC000000020083038

OC000000020083038

022855
RANDALL J. KNUTH P.C.
1507 YUMA CT
MUFREESBORO, TN 37129

Date Mailed: 08/17/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/28/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Patricia Faison-Ball

PATRICIA F FAISON BALL
OP (571) 272-3212

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/266,480	10/08/2002	Tadahiro Ohmi	FUK-99

CONFIRMATION NO. 9474

OC000000020083090

OC000000020083090

00466
YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON, VA 22202

Date Mailed: 08/17/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/28/2006.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Patricia Faison-Ball

PATRICIA F FAISON BALL
OP (571) 272-3212

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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O'MELVENY & MYERS LLP
610 NEWPORT CENTER DRIVE
17TH FLOOR
NEWPORT BEACH CA 92660

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OFFICE OF PETITIONS

In re Application of
David Lloyd Brown
Application No. 10/266,502
Filed: October 7, 2002
Attorney Docket No. 21120-205

ON PETITION

This is a decision on the petition, filed April 4, 2007, under 37 CFR 1.181, to withdraw the holding of abandonment.

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

A non-Final Office Action was mailed March 16, 2006 which set a three month period for response. No response having been filed, a Notice of Abandonment was mailed September 27, 2006.

Petitioner argues that in response to the non-Final Office Action, an amendment and three month extension of time request were filed and that therefore the Notice of Abandonment was mailed in error.

A review of the file reveals that the Office Action and Notice of Abandonment were returned as undeliverable because the applicant failed to file a revocation/power of attorney and address change prior to the first mailing on March 16, 2006 and therefore the USPTO was not at fault in the mailing. Nonetheless, a search of the application file and the USPTO records further reveals that although the office action and Notice of Abandonment were returned as undeliverable, in fact, an amendment and extension of time with a September 18, 2006 certificate of mail date, in response to the non-Final Office Action mailed March 16, 2006 was timely filed. In view thereof, the response was timely and the Notice of Abandonment mailed September 27, 2006 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 3737 for treatment of the amendment as appropriate.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 11

FULWIDER PATTON LEE & UTECHT, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES, CA 90045

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SEP 13 2005

OFFICE OF PETITIONS

In re Application of

:

David Todjar Hengami

:

Application No. 10/266,503

: DECISION ON PETITION

Filed: October 7, 2002

:

Attorney Docket No. 380186-20

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 5, 2003, which set a shortened statutory period for reply of one (1) month. No extensions of time were obtained within the allowable period. Accordingly, the application became abandoned on November 6, 2003. A Notice of Abandonment was mailed on April 20, 2004.

The election, amendment, and Information Disclosure Amendment, filed January 22, 2004, is noted and made of record.

The application is being forwarded to Technology Center 3700 for further processing.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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MAY 1 6 2004
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KINNEY & LANGE, PA
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS, MN 55415-1002

COPY MAILED

JAN 1 5 2004

OFFICE OF PETITIONS

In re Application of	:
Nicholas P. Van Brunt et al	:
Application No. 10/266,513	: DECISION GRANTING PETITION
Filed: October 8, 2002	: UNDER 37 CFR 313(c)(2)
Attorney Docket No. A792.10-0016	:

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 11, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

In view of the nonacceptance of the concurrently filed Revocation and Appointment of Power of Attorney mailed January 14, 2004, a courtesy copy of this decision is being mailed to petitioner herein. However, until an acceptable

---

[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).

power of attorney is filed, all future correspondence will continue to be held with the above-noted attorney of record; namely, Kinney & Lange, PA.

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

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 3764 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks

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

cc:

Ronald S. Henderson
Barnes & Thornburg
(Docket No. 7175-74167)
11 South Meridian Street
Indianapolis, IN 46204

BARNES & THORNBURG

11 South Meridian Street
Indianapolis, Indiana
46204
(317) 236-1313
(317) 231-7433 Fax

OIPE JC184
MAY 14 2004
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group:	3764
Account No.	23643
Confirmation No.:	8451
Application No.:	10/266,513
Invention:	CHEST COMPRESSION VEST WITH CONNECTING BELT
Applicant:	Van Brunt et al.
Filed:	October 8, 2002
Attorney Docket:	7175-74167
Examiner:	Danton D. Demille

Certificate Under 37 CFR 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, Alexandria, VA 22313

on May 11, 2004

(Signature)

Kim Tyree Burton

(Printed Name)

REQUEST TO APPLY ISSUE FEE PREVIOUSLY PAID TO CURRENT NOTICE OF ALLOWANCE

Mail Stop Issue Fee
Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicants hereby request that the Commissioner apply the issue fee which was sent to the Patent Office on December 11, 2003 in this case against the issue fee which is due June 21, 2004. The new issue fee transmittal form and a copy of the January 15, 2004 decision granting Applicants' petition to withdraw the application from issue after the December 11, 2003 payment of the issue fee are enclosed in support of this request.

Should any additional fees be due in connection with this request, the Commissioner is hereby authorized to charge Applicants' undersigned counsel's deposit account 10-0435, with reference to file number 7175-74167. A duplicate copy of this authorization is enclosed for that purpose.

Accordingly, Applicants submit that this application is in condition for issuance. Such action is respectfully requested.

Respectfully submitted,

Richard D. Conard
Attorney Reg. No. 27321
Attorney for Applicants

Indianapolis, Indiana
317-231-7285
INDS02 RDC 654069v1

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 6

Richard B. Hoffman
MARSHALL, GERSTEIN & BORUN
6300 SEARS TOWER
233 SOUTH WACKER DRIVE
CHICAGO, IL 60606-6357

COPY MAILED
JUL 21 2004
OFFICE OF PETITIONS

In re Application of :
Visser, Taylor, :
Diablo and Jamison :
Application No. 10/266,516 :
Filed: October 8, 2002 : ON PETITION
Title of Invention: Box With :
Insertable Retention Member :
And Methods for Making and :
Using the Same :

This is a decision on the Joint Petition Under 37 CFR § 1.182 to Permit Joint Prosecution, filed July 28, 2003.

Background

The above-identified application was filed on October 8, 2002, without an executed oath or declaration. The inventive entity was, however, set forth in an Application Data Sheet filed with the instant application. This Office mailed a Notice to File Missing Parts of Nonprovisional Application on November 4, 2002, requiring, *inter alia*, an executed oath or declaration.

On December 12, 2002, applicants Visser and Taylor filed a Response to Notice to File Missing Parts of Application--on Behalf of Applicants Visser and Taylor, along with a Declaration appointing attorney Richard B. Hoffman et al., and the Law Firm of Marshall, Gerstein & Borun as counsel to prosecute this application on behalf of inventors Visser and Taylor. Applicants Visser and Taylor also acknowledged in the Response that applicants Diablo and Jamison would file a separate declaration appointing separate counsel.

Thereafter, on May 6, 2003, a Supplemental Response to Notice to File Missing Parts of Application--on Behalf of Applicants Diablo and Jamison, was filed. The Supplemental Response included a Declaration executed by inventors Diablo and Jamison, appointing attorney Stephen M. Evans et al., and the Law Firm of Graybeal Jackson Haley LLP as counsel to prosecute this application on behalf of inventors Diablo and Jamison.

The petition is hereby **granted.**

In order to ensure that all interests are properly and effectively represented, **all further correspondence to the**

Patent and Trademark Office (Office) must be signed by Richard B. Hoffman et al., and the Law Firm of Marshall, Gerstein & Borun as counsel to prosecute this application on behalf of inventors Visser and Taylor, and likewise signed by Stephen M. Evans et al., and the Law Firm of Graybeal Jackson Haley LLP as counsel to prosecute this application on behalf of inventors Diablo and Jamison. Each attorney or agent signing subsequent papers must indicate whom he or she represents.

All parties are reminded that dual correspondence is not permitted, and will not be undertaken by this Office.

The Office will continue to conduct correspondence with the attorneys first named in the application, Richard B. Hoffman et al., and the Law Firm of Marshall, Gerstein & Borun, at the correspondence address of record noted above, who will also be responsible for coordinating replies or submissions to this Office. *See*, Manual of Patent Examining Procedure ("MPEP") 402.10.

It is noted that, notwithstanding this Decision, the inventors may still jointly appoint or revoke power of attorney.

This application is being returned to the Office of Initial Patent Examination for continued processing.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Honeywell International Inc.
15801 Woods Edge Road
Colonial Heights VA 23834

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MAY 19 2004
OFFICE OF PETITIONS

In re Application of
Srinivasan et al.
Application No. 10/266,517
Filed: October 8, 2002
For: HIGH-MOLECULAR WEIGHT POLYMERS AND METHODS OF MANUFACTURE
Attorney Docket No: 100740.0004US
Pub. No.: US 2003/0092853 A1
Pub. Date: May 13, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on December 8, 2003, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains an error on the front page of the publication as "Thomas Yiu-Tai Tam" is misspelled as "Thomas Yiu-Taitam".

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The request for corrected publication received on December 8, 2003, was not timely filed under 37 CFR 1.221(b).

If the corrected publication request was timely filed, the error in the inventors name would not have been considered a material error, as it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the 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).

application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

On November 7, 2002, a Filing Receipt was mailed listing the "Thomas Yiu-Tai Tam" as "Thomas Yiu-Taitam". To avoid this type of problem in the future, applicants' representative should make request for a corrected filing receipt using the facsimile number (703-746-9195) on the Filing Receipt.

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

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

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

By facsimile: 703-305-8568

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

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

Enclosure: Corrected Filing Receipt

Pet. Dec.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed MAY 18 2004

Paper No.

In re Application of Awad, Adam Serial No. 10/266,529 Filed: October 8, 2002 For: APPARATUS AND METHOD FOR FLUSING AND CLEANING ENGINE LUBRICATION SYSTEMS	:	DECISION ON PETITION UNDER 708.02 (VIII)

This is a decision on the petition filed on April 12, 2004, requesting that the above-identified application be granted Special Status under Sections 37 C.F.R. 1.102 and MPEP 708.02 II.

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

Accordingly, the petition is **GRANTED**.

Marian C. Knode

Marian C. Knode, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

GENE SCOTT; PATENT LAW & VENTURE GROUP
3140 RED HILL AVENUE
SUITE 150
COSTA MESA CA 92626-3440

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GENE SCOTT; PATENT LAW & VENTURE GROUP
3140 RED HILL AVENUE
SUITE 150
COSTA MESA, CA 92626-3440

COPY MAILED
APR 0 5 2006
OFFICE OF PETITIONS

In re Application of	:	
Adam A. Awad	:	
Application No. 10/266,529	:	ON PETITION
Filed: October 8, 2002	:	
Attorney Docket No. 1141-400-01	:	

This is a decision on the petition, filed January 5, 2006, to revive the above-identified application under 37 CFR 1.137(b).

The petition is **DISMISSED**.

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

The petition lacks items 3 above.

It is noted that petitioner suggest that a declaration is support of the petition is included; however, no declaration was found.

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

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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PATENT LAW & VENTURE GROUP
2424 S.E. BRISTOL, SUITE 300
NEWPORT BEACH, CA 92660

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OFFICE OF PETITIONS

In re Application of
Adam A. Awad
Application No. 10/266,529
Filed: October 8, 2002
Attorney Docket No. 1141-400-01

ON PETITION

This is a decision on the renewed petition, filed July 10, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowability mailed February 28, 2005. A Notice of Abandonment was mailed on August 3, 2005. On January 5, 2006 a petition under 37 CFR 1.137(b) was filed; however, the petition was subsequently dismissed in a decision mailed April 5, 2006. In response, on July 10, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the corrected drawings; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Publications to oversee the review of the drawing filed July 10, 2006.

Telephone inquires related to this decision may be directed to the undersigned at (571) 272-3204. Status inquires related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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JJGJR.: 06-06

Paper No: __

WAGNER, MURABITO & HAO LLP
THIRD FLOOR
TWO NORTH MARKET STREET
SAN JOSE CA 95113

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OFFICE OF PETITIONS

In re Application of	:	
Sakai	:	DECISION
Application No.: 10/266,544	:	
Filing Date: 7 October, 2002	:	
Attorney Docket No. SONY-50R4879.02	:	

This is a decision on the petition filed on 9 December, 2005, to revive the instant application under 37 C.F.R. §1.137(b) as having as abandoned due to unintentional delay.

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 7 March, 2005, with reply due absent extension of time on or before 7 June, 2005;
- the application went abandoned by operation of law after midnight 7 June, 2005;
- the Office mailed the Notice of Abandonment on 21 October, 2005;
- on 9 December, Petitioner filed with the instant petition (with fee) a reply in the form of an amendment, but failed to make the statement ("...the entire delay ... from the due date

of the reply to the filing of a grantable petition ... was unintentional ...") nor showing of unintentional delay (docket records)–however, **the petition is read to so state, and Petitioner hereby is placed on notice that, under his duty of candor to the Office he must notify the Office is this reading is incorrect.**[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

---

[1] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

[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).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to
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. Petitioner may review the commentary set forth at MPEP §711.03(c) and the language at 37 C.F.R. §1.137(b) for guidance.

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to the Examiner in Technology Center 1700 for further processing in due course.

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

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

[7] 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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3040 POST OAK BOULEVARD, SUITE 1500
HOUSTON TX 77056

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DEC 0 8 2008

OFFICE OF PETITIONS

In re Application of :
Zheng et al. :
Application No. 10/266,551 : DECISION ON PETITION
Filed: October 7, 2002 :
Attorney Docket No. AMAT/7512/DSM/LOW K/JW :

This is a decision on the petition, filed November 18, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the final Office action mailed February 12, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on October 31, 2008.

Petitioner asserts that the Office action dated February 12, 2008 was not received. Petitioner has provided a docket record where the Final Office Action would have been entered had it been 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. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

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 master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. 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 master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy all of the above-stated requirements. Item (1) has not been satisfied.

As to item (1), petitioner needs to describe the system used to record an Office action and establish that the docketing system is sufficiently reliable.

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATTERSON & SHERIDAN, LLP - - APPM/TX
3040 POST OAK BOULEVARD, SUITE 1500
HOUSTON TX 77056

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OFFICE OF PETITIONS

In re Application of :
Zheng et al. :
Application No. 10/266,551 :
Filed: October 7, 2002 :
Attorney Docket No. AMAT/7512/DSM/LOW K/JW :

DECISION ON PETITION

This is a decision on the renewed petition, filed January 16, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action mailed February 12, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on October 31, 2008.

Petitioner asserts that the Office action dated February 12, 2008 was not received. Petitioner has provided a docket record where the Final Office Action would have been entered had it been 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. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

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 master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. 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 master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

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.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 1792 for re-mailing the Office action of February 12, 2008. The period for reply will run from the mailing date of the Office action.

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

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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Alexandria, VA 22313-1450
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PRAXAIR, INC.
LAW DEPARTMENT-M1 557
39 OLD RIDGEBURY ROAD
DANBURY, CY 06810-5113

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OFFICE OF PETITIONS

In re Application of :
Brian Lombardo et al :
Application No. 10/266,552 : ON PETITION
Filed: October 7, 2002 :
Attorney Docket No. 21275-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 4, 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 December 1, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). 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 2, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1796 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 6

McIntyre-Lilley Intellectual Property
Management Services
Suite #12
2000 South 2nd Street
Arlington, VA 22204

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JUL 0 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Naoto Takeda	:	
Application No. 10/266,627	:	ON PETITION
Filed: October 9, 2002	:	
Attorney Docket No. WC-02-10-01.00	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 14, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed November 13, 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 13, 2003.

In response, petitioner submitted with the instant petition a check in the amount of $2,240. $1,330 was for the petition to revive fee, $770 was for the large entity basic filing fee, and $130 was for the late filing of the oath/declaration. Petitioner may request a refund of the remaining $10 by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

The petition is **GRANTED**.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6711.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENT ADMINISTRATOR
KATTEN MUCHIN ROSENMAN LLP
1025 THOMAS JEFFERSON STREET, N.W.
EAST LOBBY: SUITE 700
WASHINGTON DC 20007-5201

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JUL 27 2007

OFFICE OF PETITIONS

In re Application of	:	
SCHIFF, et al.	:	
Application No. 10/266,629	:	DECISION ON PETITION
Filed: October 9, 2002	:	TO WITHDRAW
Attorney Docket No. 215167.00012	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 12, 2004 and re-submitted April 22, 2004.

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 Andrew J. Bateman on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Steven Schiff at the address indicated below.

There is an outstanding Office action mailed July 20, 2007 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **STEVEN SCHIFF**
ECONOMIC OXYGEN
22 WHITE BIRCH LANE
STAMFORD, CT 06905

UNITED STATES PATENT AND TRADEMARK OFFICE

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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Geoffrey R. Facer et al.	:	
Application No. 10/226,633	:	DECISION ON PETITION
Filed: August 23, 2002	:	TO WITHDRAW
Attorney Docket No. 022363.000211US	:	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 August 7, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Randolph Ted Apple does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Geoffrey R. Facer
1775 O'Farrell Street #12
San Francisco, CA 94115

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TECHNOLOGY CENTER 3600

Abraham Hershkovitz
Hershkovitz & Associates
1725 I Street, NW
Suite 300
Washington, DC 20006

In re Application of
Bruce Cooper, et al
Application No. 10/266635
Filed: October 9, 2002

For: BUILDING MEMBER FOR
CONCRETE FORM WALLS

DECISION ON PETITION
Under 37 CFR 1.181

This is a decision on applicant's Petition Under 37 CFR 1.181 for Supervisory Review, filed October 10, 2005.

The petition is **GRANTED.**

Applicant's petition indicates that the application has undergone piecemeal handling which has delayed prosecution. The petition seeks relief in the form of directing the examiner to vacate the Office action of August 8, 2005 and replace it with a notice of allowance. If the application is not allowable, petitioner requests a clear basis for such a finding.

A review of the file shows a lengthy prosecution. A review and reconsideration of the outstanding Office action shows that some of the rejections are not maintainable and that the examiner will be instructed to contact the applicant and suggest an examiner's amendment that will put the application in condition for allowance.

For the reasons above, the petition is **GRANTED**.

The application is returned to the examiner for preparation of a Notice of Allowability subject to applicant's agreement of a proposed examiner's amendment.

John J. Love
Patent Technology Center 3600
Telephone No.: (571) 272-5250
Cf11/3/05

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#17

Paper No.

Kenneth C. Baran
Pratt & Whitney
Patent Department - MS 132-13
400 Main Street
East Hartford, CT 06108

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APR 2 3 2004

OFFICE OF PETITIONS

In re Application of	:	
Frederick R.Joslin	:	
Application No. 10/266,649	:	ON PETITION
Filed: October 8, 2002	:	
Attorney Docket No. EH-10733	:	

This is a decision on the petition, filed April 22, 2004, under 37 CFR(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 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 relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center AU 3745 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 indicted as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language on bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MAR 1 2 2010

OFFICE OF PETITIONS

MEDTRONIC INC
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS MN 55432-9924

In re Application of	:	
Rodgers, et al.	:	
Application No. 10/266,651	:	ON PETITION
Filed: October 7, 2002	:	
Attorney Docket No. P0010799.00	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed January 4, 2010.

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

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action, mailed May 12, 2009. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on August 13, 2009. The Office mailed a Notice of Abandonment on November 23, 2009

With the instant petition, applicants made the proper statement of unintentional delay, paid the petition fee, and filed the required reply in the form of an Amendment.

The application is being forwarded to Group Art Unit 3766 for consideration of the Amendment, filed January 4, 2010.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MANELLI DENISON & SELTER PLLC
2000 M STREET NW, SUITE 700
WASHINGTON, DC 20036-3307

MAILED
MAY 24 2010
OFFICE OF PETITIONS

In re Application of	:	
Lance D. PITT, et *al.*	:	
Application No. 10/266,688	:	DECISION ON PETITION
Filed: October 9, 2002	:	UNDER 37 CFR 1.181 and
Attorney Docket No. **20-492**	:	UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.181, filed July 7, 2009, requesting withdrawal of the holding of abandonment in the above-identified application. This is also a decision on the petition under the unintentional provisions of 37 CFR 1.137(b) filed November 24, 2009.

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

The petition under 37 CFR 1.137(b) is hereby **DISMISSED** as moot.

This application was held abandoned for failure to timely respond to the Office action of December 9, 2008, which set a shortened statutory period for reply of three (3) months. A reply was due on or before March 9, 2009.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on March 3, 2009. A copy of the previously submitted reply accompanies the petition.

The Request for Continued Examination (RCE) acknowledged as having been received in the USPTO on March 3, 2009 is not of record in the application file and has not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the RCE was timely received in the USPTO but lost after receipt thereof.

The holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on March 3, 2009.

Petitioner may request a refund of the $1620 petition fee submitted on November 24, 2009, by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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

This application is being referred to Technology Center AU 2618 for appropriate action in the normal course of business on the reply received with petition.

Thurman K. Page

Thurman K. Page
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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SIEMENS SCHWEIZ AG
I-47, INTELLECTUAL PROPERTY
ALBISRIEDERSTRASSE 245
ZURICH CH-80-47
SWITZERLAND

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MAR 0 4 2008

In re Application of	:	
Walter Rosenbaum	:	
Application No. 10/266,752	:	ON PETITION
Filed: October 9, 2002	:	
Attorney Docket Number: 2000P08047WOUS	:	

This is a decision on the petition under 37 CFR §1.181 filed January 10, 2008 to withdraw the holding of abandonment.

The petition filed under 37 CFR 1.181 is **Granted**.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of May 14, 2007. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on August 15, 2007. A Notice of Abandonment was mailed on August 13, 2007.

Petitioner contends a reply to the non-final Office action was received in the Office on August 13, 2007. Petitioner states that the reply in the form of an amendment, abstract, claims, specification and remarks were submitted on August 13, 2007. In support of petitioner's argument, a copy of certificate of transmission and Auto-Reply Facsimile Transmission was provided. The amendment also included a certificate of transmission dated June 13, 2007.

Petitioner does acknowledge the transmittal letter included the incorrect application number. The transmittal did contain the correct art unit, filing date, examiner's name, applicant and title of invention. The amendment also contained the correct application number.

Correspondence directed to the Patent and Trademark Office concerning a previously filed application for a patent must identify the application number and filing date assigned to that application by the Office. See, 37 CFR 1.5(a). In the above-referenced application, applicant failed to correctly identify the application by citing application 10/226,752 rather than the correct application No. 10/2**66**,752. The Office elects, in this instance, to treat applicant's listing of a transposed application number as a correctable minor error as permitted under MPEP 502. However, applicant is reminded that minor errors, such as occurred in the instant application, are to be avoided in the future by the careful review of correspondence prior to submission to the Office.

The response submitted August13, 2007 has been located. Based on the facts stated in the instant petition and the corroborative evidence provided, it is concluded that the holding of abandonment was improperly imposed.

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

This application is being forwarded to the Art Unit 3629 for further processing of the reply submitted on August 13, 2007.

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

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

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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BRUCE H. TROXELL
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH, VA 22041

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OFFICE OF PETITIONS

In re Application of
Ming-Tien Lin et al
Application No. 10/266,768
Filed: October 9, 2002
Attorney Docket No. BHT-3167-74

ON PETITION

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

The petition is **DISMISSED**.

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

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 November 10, 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 febraury 11, 2005.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee 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)). This petition lacks item (1) above.

As to item (1), the amendment submitted on June 29, 2005 does not *prima facie* places the application in condition for allowance. The required reply to the final Office action must be an

amendment that *prima facie* places the application in condition for allowance, a Notice of Appeal and the requisite fee, or a request for continued examination (RCE). A courtesy copy of the Advisory Action is enclosed.

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

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

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

By fax: (571) 273-8300

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1,020.00 extension of time submitted with the petition on June 29, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

Wan Laymon
Petitions Examiner
Office of Petitions

Attachments: Courtesy copy of the Advisory Action

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BRUCE H. TROXELL
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH, VA 22041

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MAR 2 2 2007

OFFICE OF PETITIONS

In re Application of

Lin, et al. :

Application No. 10/266,768

: DECISION ON PETITION

Filed: October 9, 2002

:

Attorney Docket No. BHT-3167-74

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

The renewed petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed November 10, 2004, which set a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A response was not received within the allowable period and the application became abandoned on February 11, 2005. A Notice of Abandonment was mailed on June 2, 2005. A petition under 37 CFR 1.137(b) was filed on June 29, 2005, and dismissed on January 18, 2006.

The Request for Continued Examination filed March 17, 2006, is noted and made of record.

The application is being forwarded to the Office of Patent Publications for further processin

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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LOCKE LIDDELL & SAPP LLP
Attn. Docketing
600 Travis #3400
Houston, TX 77002

APR 4 2006

In re Application of:
Arthur E. Woodward et al.
Serial No.: 10/266,793
Filed: October 8, 2002
Attorney Docket No.: 021959.024US

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is a decision on the petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181(a) filed on March 4, 2005. There is no fee for this petition.

The petition is **DISMISSED**.

This application became abandoned for failure to timely file a proper reply to the Office action mailed on May 21, 2004. A Notice of Abandonment was mailed on January 13, 2005.

Petitioner asserts that a response to the Office action of May 21, 2004 was timely filed via facsimile transmission on November 22, 2004 (November 21, 2004 fell on a Sunday). In support of this assertion, petitioner submitted a copy of the response which bears a Certificate of Transmission under 37 C.F.R. § 1.8(a) dated November 22, 2004.

The file record does not include the originally submitted response.

REGULATION

37 C.F.R. § 1.8(b) provides:

> "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 or receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement."

The present petition fails to include a copy of the sending unit's report confirming transmission or other evidence of the transmission. The Certificate of Transmission on the copy of the response indicates that the response was sent to the Central FAX Number (703-872-9306) of the PTO at the time the response was sent. If such was the case, applicant should have received a sheet entitled "Auto-Reply Facsimile Transmission" confirming that transmission.

Although the copy of the response did not include a specific request or petition for an extension of time, the response authorized the PTO "to deduct the required extension fee, and any other fees relating to this paper under 37 C.F.R. §§ 1.16 to 1.21" from applicant's Deposit Account. Office records indicate that no fees were deducted from the given Deposit Account around the time the response was asserted to be transmitted.

For these reasons, the petition is **DISMISSED** and the application remains abandoned. Petitioner may wish to consider filing a petition under 37 C.F.R. § 1.137(b).

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

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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LOCKE LIDDELL & SAPP LLP
ATTN. DOCKETING
600 TRAVIS #3400
HOUSTON TX 77002

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OFFICE OF PETITIONS

In re Application of	:	
Woodward et al.	:	
Application No. 10/266,793	:	DECISION ON PETITION
Filed: 8 October, 2002	:	
Atty Docket No. 021959.024US	:	

This is a decision on the petition filed on 14 August, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 22 August. 2004, for failure to timely file a proper reply to the non-final Office action mailed on 21 May, 2004, which set a three (3) month shortened

[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)).

statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 13 January, 2005. The petition to withdraw the holding of abandonment filed on 4 March, 2005, was dismissed on 4 April, 2006.

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 (3)-month extension request filed on 14 August, 2006, was submitted more than three (3) months after the end of the period for reply to the Office communication mailed on 21 May, 2004, and therefore is unnecessary. The extension of time fee paid on 14 August, 2006, will be credited to counsel's deposit account as authorized.

This application is being referred to Technology Center Art Unit 2837 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

[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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WORKMAN NYDEGGER
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

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OCT 28 2008

OFFICE OF PETITIONS

In re Application of	:	
Athanasios Angelopoulos	:	
Application No. 10/266,795	:	DECISION ON PETITION
Filed: October 8, 2002	:	
Attorney Docket No. 17791.3.1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 22, 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 December 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 March 2, 2007. A Notice of Abandonment was mailed July 16, 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 $770.00, and (3) an adequate statement of unintentional delay.

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

Additionally, the revocation and substitute power of attorney submitted August 22, 2008 has been accepted and a copy of the Notice of Acceptance of Power of Attorney is enclosed.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 3714 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/266,795	10/08/2002	Athanasios Angelopoulos	

CONFIRMATION NO. 9115

POA ACCEPTANCE LETTER

22913
Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

OC000000032809244

Date Mailed: 10/27/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/22/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/jolszewski/

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

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S.C. JOHNSON & SON, INC.
1525 HOWE STREET
RACINE WI 53403-2236

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OFFICE OF PETITIONS

In re Application of
Kotary, et al.
Application No. 10/266,798
Filed: October 8, 2002
Attorney Docket No. J-3363
For: WICK-BASED DELIVERY SYSTEM WITH WICK HAVING SMALL POROSITY SECTIONS

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition under 37 CFR 1.181, filed November 3, 2004, requesting withdrawal of the holding of abandonment of the above-identified application.

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

This application was held abandoned for failure to timely submit a reply to the non-final Office action, mailed April 15, 2004, which set forth a 3 month period for reply. The Office has no record of receiving a reply. The Office contended that this application became abandoned on July 16, 2004. A Notice of Abandonment was mailed on October 26, 2004.

Petitioners assert that a reply was timely submitted on July 12, 2004. In support of this assertion, petitioners have provided a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination stamp citing July 12, 2004 as the date of receipt. The postcard lists, *inter alia*, that the filing included a response to the April 15, 2004 Office action.

The return postcard constitutes *prima facie* evidence that a response to the April 15, 2004 Office action was timely received in the Office on July 12, 2004. 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 forwarded to Technology Center A.U. 3752 for consideration of the July 12, 2004 response to the April 15, 2004 Office action which was resubmitted with the instant petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Syed Sajid Ahmad
Application No. 10/266,847
Filed: October 7, 2002
Attorney Docket No. 108298526US2

This is a decision on the petition, filed January 13, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 11, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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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MEREK, BLACKMON & VOORHEES, LLC
673 S. WASHINGTON ST.
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Desai, et al. :
Application No. 10/266,865 : ON PETITION
Filed: October 8, 2002 :
Attorney Docket No.10.0474

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed April 30, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

The above-identified application became abandoned for failure to reply to the Notice of Allowability mailed November 2, 2006, which set a statutory period for reply of three (3) months from its mailing date. No response was received within the allowable period, and the application became abandoned on February 3, 2007. A Notice of Abandonment was mailed on February 27, 2007.

Petitioner maintains that the requirement for corrected drawings made by the Notice of Allowability was in error. The undersigned contacted Examiner Burrowes who confirmed that the requirement for corrected drawings made in the Notice of Allowability was made in error. Based on the aforementioned, it appears that the application was improperly held abandoned. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded to the Technology Center 2600, GAU 2616 for further processing including forwarding by Examiner Burrowes of one copy of corrected drawings (with correction made in red) to the Office of Patent Publications.

Kenya A. McLaughlin
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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OFFICE OF PETITIONS

In re Application of
Kazutaka Inukai
Application No. 10/266,867
Filed: October 9, 2002
Attorney Docket No.: 740756-2541

ON PETITION

This is a decision on the petition, filed December 29, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2822 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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Paper No. 4

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JAN 22 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2800

MORGAN, LEWIS & BOCKIUS, LLP.
3300 HILLVIEW AVENUE
PALO ALTO CA 94304

In re Application of:
Lewis B. ARONSON, et al.
Application No. 10/269,869
Filed: October 8, 2002
For: SYSTEM AND METHOD FOR PROTECTING EYE SAFETY DURING OPERATION OF A FIBER OPTIC TRANSCEIVER

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on October 27, 2003, 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(i);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submissions of October 27, 2003 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.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 6

Morgan, Lewis & Bockius, LLP
3300 Hillview Avenue
Palo Alto, CA 94304

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JUL 0 8 2004
OFFICE OF PETITIONS

In re Application of :
Lewis B. Aronson, et. al. :
Application No. 10/266,870 : ON PETITION
Filed: October 8, 2002 :
Attorney Docket No. 9775-0105-999 :

This is a decision on the petition under 37 CFR 1.182, filed June 8, 2004, to change the name of the inventor.

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. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence will be directed solely to the address of record until otherwise instructed.

The petition is **GRANTED**.

The name of the inventor will be changed as follows:

1. Lucy G. Hosking

The above-identified application is being forwarded to Technology Center 2633, to await a response to the non-final Office action mailed April 22, 2004.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

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

Frances Hicks
Lead Petitions Examiner

Enclosure: Corrected Filing Receipt

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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In re Application of	: DECISION ON REQUEST
Cora Carlson et al	: UNDER 37 CFR 1.97
Serial No: 10/266,895	: FOR CONSIDERATION
Filed: October 8, 2002	: OF INFORMATION
For: MULTI-CLUTCH ARRANGEMENT	: DISCLOSURE STATEMENT

The request under 37 CFR 1.97(d) for consideration of an information disclosure statement filed on July 26, 2004 after allowance has been:

(X) GRANTED.

( ) DENIED.

The request lacks:

( ) The required fee under 37 CFR 1.97(d)(2) and 1.17(p).

( ) A proper certification as specified in 37 CFR 1.97(e)(1) or 1.97(e)(2). 37 CFR 1.97(e)(1) requires statement to include that each item of information contained in the IDS 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 IDS.

The information disclosure statement has been placed of record in the file and will be considered by the examiner. See Federal Register 65 Fed. Reg. 54603 (September 8, 2000); Official Gazette 1238 Off. Gaz. Pat Office 77 (September 19, 2000) for rule changes fo 37 CFR 1.97.

Charles A. Marmor

Charles A. Marmor, SPE
Art Unit 3681
(703) 308-0830

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Alexandria, VA 22313-1450
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WILLIAM R. COENEN, III
KEAN, MILLER, HAWTHORNE, D'ARMOND,
MCCOWAN & JARMAN, L.L.P.
POST OFFICE BOX 3513
BATON ROUGE, LA 70821

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JAN 13 2005
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FAX RECEIVED
CANCELLED
JAN 12 2005
OFFICE OF PETITIONS

In re Application of
Claude M. Crowe
Application No. 10/266,898
Filed: October 8, 2002
Attorney Docket No. 16615-5

ON PETITION

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**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed March 8, 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) was obtained. An Advisory action was mailed July 12, 2004 indicating that the reply filed on June 4, 2004 failed to place the application in condition for allowance. Accordingly, the application became abandoned on June 9, 2004.

Receipt is acknowledged of the Amendment filed October 18, 2004, with the instant petition.

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

The application matter is being forwarded to Technology Center 3600, Art Unit 3643 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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PILLSBURY WINTHROP LLP
INTELLECTUAL PROPERTY GROUP
SUITE 2800
725 SOUTH FIGUEROA STREET
LOS ANGELES, CA 90017-5406

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SEP 0 7 2004
OFFICE OF PETITIONS

In re Application of :
Toshihiko Muramatsu :
Application No. 10/266,904 : ON PETITION
Filed: October 8, 2002 :
Attorney Docket No. P 0277403/H7814US :

This is a decision on the petition, filed August 30, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 9, 2004, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated August 3, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 2817 for further processing of the request for continued examination under 37 CFR 1.114 filed August 30, 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).

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6598844	2003-07-29	10266912	2002-10-08	010967.00081

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	/Jon O. Nelson/	Date (YYYY-MM-DD)	2009-06-22
Name	Jon O. Nelson	Registration Number	24566

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. 6598844
Issue Date: July 29,2003
Application No. 10266912
Filed: October 8,2002
Attorney Docket No. 10967.00081

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

This is a decision on the electronic petition, filed June 22,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 22,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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Alexandria, VA 22313-1450
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PILLSBURY WINTHROP LLP
PO BOX 10500
MCLEAN, VA 22102

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MAR 09 2009

OFFICE OF PETITIONS

In re Application of	:	
Paul J. Matthews, et. al.	:	
Application No. 10/266,930	:	DECISION ON PETITION
Filed: October 9, 2002	:	TO WITHDRAW
Attorney Docket No. P291432/OS-008	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 3, 2004.

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

A review of the file record indicates that the power of attorney to PILLSBURY WINTHROP LLP has been revoked by the assignee of the patent application on August 29, 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: FSP LLC
P.O. BOX 890
VANCOUVER WA 98666

UNITED STATES PATENT AND TRADEMARK OFFICE

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Bradley T Sako
Walker & Sako LLP
300 South First Street
Suite 235
San Jose CA 95113

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OFFICE OF PETITIONS

In re Application of
Wanzakhade et al.
Application No. 10/266,953
Filed: October 8, 2002

Title of Invention: Magnitude Comparator Circuit for Content Addressable Memory with Programmable Priority Selection

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a) to revive the application filed on November 20, 2006. This petition is properly treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181

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

The petition to revive under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action which was mailed on June 4, 2004. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on September 5, 2004. A Notice of Abandonment was mailed on April 5, 2005.

Petitioner asserts that the non-final Office action on June 4, 2004 was never received. A review of the record indicates the non-final Office action was mailed to an incorrect correspondence address. A change of correspondence address and statement under 37 CFR 3.73(b) was received in the Office on December 15, 2003. However the change of correspondence address was not entered. Thus the non-final Office action was improperly mailed.

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

This application is being forwarded to Art Unit 2824 for treatment of the response to the Office action submitted on November 20, 2006.

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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Paper No.

BRADLEY T. SAKO
HAVERSTOCK & OWENS, LLP
162 NORTH WOLFE ROAD
SUNNYVALE CA 94086

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JUN 18 2008

In re Application of	:	
Sanjay M. Wanzakhade	:	DECISION ON REQUEST
Application No. 10/266,953	:	FOR RECONSIDERATION OF
Filed: 10/08/2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
CY02-001	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE," filed on April 14, 2008. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to nine hundred forty-nine 949 days "plus the number of days between the payment of the issue fee the issuance of the corresponding patent." Petitioner also states that failure to issue the patent within three years of the actual filing date is the basis for Applicant's adjustment.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Patentee is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Patentee may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met.

Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **five hundred eleven (511)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 15, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days (511 days of Office delay reduced by 807 days of applicant delay). On April 14, 2008, applicant timely submitted the instant application for patent term adjustment. Applicant's basis, in part, for the application for patent term adjustment is the applicant delay from the June 4, 2004, mailing date of the non-final Office action to the filing of petition, treated as a petition to withdraw the holding of abandonment, and response to the Office action, both filed on November 20, 2006. Specifically, applicant asserts that neither the Office action mailed on June 4, 2004, nor the Notice of Abandonment mailed on April 5, 2005, was received. Further, as the holding of abandonment was withdrawn, applicant asserts, in essence, that the total period of applicant delay should be no (0) days rather than 807 days.

The showing of record is that applicant filed the petition to withdraw the holding of abandonment on November 20, 2006, and has shown therein that the Office action mailed on June 4, 2004, was not received The showing of record further reflects that the Notice of Abandonment was not received. The holding of abandonment was subsequently withdrawn in a decision mailed on March 28, 2007.

As applicants have shown, and the file reflects, that the non-final Office action mailed on June 4, 2004, and the Notice of Abandonment mailed on April 5, 2005, were never received, the applicant should not be assessed for the delay in responding to the non-final Office action mailed on June 4, 2004.

Accordingly, there is no applicant delay within the meaning of §1.704(b) for the filing of the response to the Office action mailed on June 4, 2004.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is **511 days** (511 days of Office delay reduced by no (0) days of applicant delay).

The $200.00 fee set forth in 37 CFR 1.18(e) will be charged to counsel's deposit account. No additional fees are required.

The application is being forwarded to the Office of Data Management 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).

Applicant is reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Thursday
Date: 6/12/2008

PALM INTRANET

Time: 09:50:52

PTA Calculations for Application: 10/266953			
Application Filing Date:	10/08/2002	PTO Delay (PTO):	511
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	807
Post-Issue Petitions:	0	Total PTA (days):	511
PTO Delay Adjustment:	807		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
43	06/12/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	807		
35	02/15/2008	MAIL NOTICE OF ALLOWANCE	332		28
34	06/27/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
33	06/27/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
32	06/27/2007	DOCUMENT VERIFICATION			
31	06/25/2007	NOTICE OF ALLOWABILITY			
30	11/20/2006	NEW OR ADDITIONAL DRAWING FILED			
29	03/28/2007	DATE FORWARDED TO EXAMINER			
28	11/20/2006	RESPONSE AFTER NON-FINAL ACTION		807	15
25	03/28/2007	MAIL NOTICE OF RESCINDED ABANDONMENT			
24	03/28/2007	NOTICE OF RESCINDED ABANDONMENT IN TCS			
23	03/20/2007	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
22	11/20/2006	PETITION ENTERED			
21	03/20/2007	MAIL-PETITION DECISION - DISMISSED			
20	11/20/2006	PETITION ENTERED			
19	09/14/2006	CORRESPONDENCE ADDRESS CHANGE			
18	09/12/2006	MISCELLANEOUS INCOMING LETTER			
17	04/05/2005	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
16	04/04/2005	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
15	06/04/2004	MAIL NON-FINAL REJECTION	179		-1
14	06/01/2004	NON-FINAL REJECTION			
13	01/14/2004	CORRESPONDENCE ADDRESS CHANGE			

12	01/15/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
11	01/14/2004	CORRESPONDENCE ADDRESS CHANGE			
10	01/14/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	01/14/2004	CORRESPONDENCE ADDRESS CHANGE			
8	11/25/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
7.7	12/30/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	12/30/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	11/22/2002	CASE DOCKETED TO EXAMINER IN GAU			
5	11/05/2002	APPLICATION DISPATCHED FROM OIPE			
4	11/05/2002	APPLICATION IS NOW COMPLETE			
2	10/16/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/08/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. 5

Paul R. Steffes, Esq.
RENNER, OTTO, BOISSELLE & SKLAR, LLP
Nineteenth Floor
1621 Euclid Avenue
Cleveland, OH 44115-2191

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FEB 28 2003

OFFICE OF PETITIONS

In re Application of
Daniel E. Lewis
Application No. 10/266,954
Deposited: October 8, 2002
Attorney Docket No. TELNP0160USA

DECISION ON PETITION

This is a decision on the "Petition under 37 CFR § 1.53(e) and 1.181 to Accord Filing Date of October 8, 2002," filed December 26, 2002. This petition is properly considered as a petition under § 1.182, requesting that the above-identified application be accorded a filing date of October 8, 2002, relying on an incorporation by reference.

Application papers in the above-identified application were filed on October 8, 2002. However, on November 15, 2002, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without a complete specification as prescribed by 35 U.S.C. 112.

In reply, petitioner filed the instant petition. Petitioner acknowledges that this application was filed without a complete specification (i.e., the description portion of the specification was inadvertently omitted). However, petitioner requests, in accordance with MPEP 201.06(c), that the specification contained in prior application (application No. 09/093,333, which issued as US Patent No. 6,457,049 on October 29, 2002), be included in the instant Nonprovisional application based upon the incorporation by reference statement contained in paragraph 18 of the application transmittal for the instant application. Included with the petition was a check for $130 for the petition fee.

A review of the application-as-filed reveals that it contained the incorporation by reference statement, incorporating the entire disclosure of the prior application. MPEP 201.06 provides in, pertinent part, that:

> Material needed to accord an application a filing date may not be incorporated by reference. Therefore, if a continuation or divisional application as originally filed incorporates by reference material omitted from the application papers, which is needed to accord the application a filing date, the application will not be entitled to a filing date. A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that

> the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application. An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered.

The instant petition is being treated as a petition under § 1.182. The petition fee has been received. The request for refund of this fee is denied. This fee is not subject to refund, as it is a required element of a grantable petition under § 1.182.

The petition, however, is not currently grantable. Petitioner has not filed the necessary omitted material, the complete specification, and preliminary amendment submitting the omitted material as required.

Accordingly, the petition under § 1.182 is **DISMISSED** without prejudice to reconsideration upon the timely filing of the necessary omitted material and preliminary amendment. As the papers containing the omitted material are required to accord a filing date, they may not be filed by facsimile. See 37 CFR 1.8(a)(2)(i)(A).

Any request for reconsideration should be styled "Renewed Petition under § 1.182" and 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 CFR § 1.136(a) or (b).

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

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

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

Telephone inquiries specific to this decision should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 8

Paul R. Steffes, Esq.
RENNER, OTTO, BOISSELLE & SKLAR, LLP
Nineteenth Floor
1621 Euclid Avenue
Cleveland, OH 44115-2191

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MAR 2 4 2003

OFFICE OF PETITIONS

In re Application of :
Daniel E. Lewis :
Application No. 10/266,954 : DECISION ON PETITION
Filed: October 8, 2002 :
Attorney Docket No. TELNP0160USA :

This is a decision on the "Renewed Petition under Rule 1.182," filed March 10, 2002. Relying on an incorporation by reference statement, petitioner requests that the above-identified application be accorded a filing date of October 8, 2002.

Application papers in the above-identified application were filed on October 8, 2002. In response to a "Notice of Incomplete Nonprovisional Application" mailed November 15, 2002, applicants timely filed the initial petition. However, the petition was dismissed for failure to submit the complete specification as petitioner maintains it was incorporated by reference, with a preliminary amendment requesting amendment of the application to include the omitted material. (Decision mailed February 28, 2003).

In response, petitioner timely filed both the omitted material and the preliminary amendment. As stated in the initial decision, the application-as-filed contained an incorporation by reference statement, incorporating the entire disclosure of the prior application. Petitioner has now met the requirements for the application to be accorded a filing date as of its date of deposit. See MPEP 201.06.

In view thereof, the petition under § 1.182 is **GRANTED**. The amendment will be entered by the examiner in due course.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for **according of a filing date of October 8, 2002**, using the application papers received in the Office on that date and the specification submitted on renewed petition filed March 10, 2003.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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JUN 23 2003

OFFICE OF PETITIONS

PHILIPS ELECTRONICS NORTH AMERICAN CORP
580 WHITE PLAINS RD
TARRYTOWN, NY 10591

In re Application of
Huajun Tang
Application No. 10/266,968
Filed: October 7, 2002
Attorney Docket Number: 10004312-1

ON RENEWED PETITION

This is in response to the renewed petition under 37 CFR 1.47(b), filed June 18, 2003.

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

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

Telephone inquiries related to this decision 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland, CO 80537-0599

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APR 1 8 2003

OFFICE OF PETITIONS

In re Application of
Huajun Tang
Application No. 10/266,968
Filed: October 7, 2002
Attorney Docket Number: 10004312-1

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

This is in response to the petition under 37 C.F.R. §1.47(b), filed January 13, 2003.

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

The above-identified application was filed on October 7, 2002, without an executed oath or declaration, and naming Huajun Tang as the sole inventor. Accordingly, on November 6, 2002, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit for the purposes of this decision an executed oath or declaration, and pay a surcharge for late filing. The Notice set an extendable two month period for reply.

In reply, applicant filed the instant petition and the surcharge for late filing of the declaration. A petition fee in the amount of $130.00 has been charged to deposit account 50-1078. Accompanying the petition is the Agreement Regarding Confidential Information and Proprietary Developments, Declaration of Pamela Lau Kee, and Federal Express documentation.

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to meet requirements (1) and (2).

As to item (1), the petition does not illustrate "diligent effort" was made to locate inventor Tang. The affidavit indicates application papers were sent to inventor Tang's last known address via Federal Express. The Federal Express package was undeliverable due to a "bad address". There is no indication rule 47 applicant took any steps to locate inventor Tang once it was determined he no longer resided at the address on record at Agilent's Human Resources Department. Diligent effort requires that rule 47 applicant attempt to locate inventor Tang so that the application papers (including specification, claims and drawings) can be presented for his review and signature. See MPEP 409.03(d). Rule 47 applicant has failed to provide evidence of

diligent effort. To establish diligent effort applicant may wish to conduct an Internet search, look in a local phone book for an appropriate listing, attempt to contact inventor Tang via e-mail or phone and/ or consult former co-workers to determine if inventor Tang left any forwarding information.

Applicant should present copies of documentary evidence that support a finding that the non-signing inventor could not be found or reached and the steps taken to locate the non-signing inventor. It is important that the statement contain facts as opposed to conclusions. If applicant provides sufficient evidence that diligent effort has been made to locate the inventor and inventor can not be located, 47 applicant is not required to send a copy of the application.

However if inventor Tang is located, rule 47 applicant is required to demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). Rule 47 applicant will also need to submit an address for inventor Tang via a substitute oath or declaration or an application data sheet. See 37 CFR 1.67.

As to item (2), Applicant failed to submit an executed oath or declaration that is in compliance with 37 CFR 1.63. The granting of 47 status requires a rule 47 (b) applicant to make the oath required by 37 CFR §1.63 and §1.64. Thus, the declaration or oath must still meet the requirements of 37 CFR 1.63. Where applicant is a corporation, an officer of the corporation normally is required to execute the oath or declaration. The declaration must state the full name, residence, post office address, and citizenship of the non-signing inventor. The title or position of the person signing must also be stated if signing on behalf of a corporation under 37 CFR §1.47(b). See MPEP 409.03(b).

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

By mail:	Assistant Commissioner for Patents Box DAC Washington, D.C. 20231
By FAX:	(703) 308-6916 Attn: Office of Petitions
By hand:	Crystal Plaza Four, Suite 3C23 2201 S. Clark Place Arlington, VA 22202

Telephone inquiries regarding this decision should be directed to at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland, CO 80537-0599

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OCT 0 9 2003

OFFICE OF PETITIONS

In re Application of
Huajun Tang
Application No. 10/266,968
Filed: October 7, 2002
Attorney Docket Number: 10004312-1

CORRECTED DECISION

This is in response to the renewed petition under 37 CFR 1.47(b), filed June 18, 2003.

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

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

Telephone inquiries related to this decision 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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

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MAY 27 2003

OFFICE OF PETITIONS

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

In re Application of
Aalund et al.
Application No. 10/267,008
Filed: October 8, 2002
Attorney Docket No. PRI-157XX

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

This decision concerns the April 21, 2003 petition under 37 CFR 1.47(a).

The petition is **GRANTED.**

Six inventors are named in this application. The declaration filed with the application was not signed. A Notice to File Missing Parts of Nonprovisional Application was mailed on November 4, 2002, giving Applicants an extendable 2-month period to submit, *inter alia*, a proper oath or declaration.[1] In response, the instant petition was filed, accompanied by a "Declaration and Power of Attorney" signed by all of the inventors except Brian Loiler ("Loiler") ("4/21/03 Declaration"), along with a request for a 4-month extension of time and the requisite extension-of-time fee.

The petition asserts that Loiler refuses to join in this application, and requests that the 5 signing inventors be allowed to file this application on behalf of themselves and Loiler. Under 37 CFR 1.47(a), the available inventors may file this application on behalf of themselves as well as Loiler provided that a *bona fide* attempt has been made to present to Loiler, for review and signature, a copy of the entire application (specification including claims; drawings), and that the latter refuses to join in this application.[2]

To show that Loiler has refused to join in this application despite such a *bona fide* attempt, the petition must include, *inter alia*, a statement of facts concerning the circumstances of the presentation of the application papers to Loiler at his last known address,[3] and his subsequent

---

[1] The other missing items were the application basic filing fee, and the extra claims fee.

[2] See MPEP section 409.03(d) (Rev. 1, Feb. 2003) (Where a refusal of the inventor to sign the application papers is alleged, 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 . . . When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts.).

[3] 37 CFR 1.47(a); MPEP section 409.03(e) (Rev. 1, Feb. 2003).

refusal.[4]

The petition contains a declaration by counsel for Assignee, Stanley M. Schurgin ("Schurgin") which, in conjunction with the exhibits, states that:

-On December 13, 2002, Schurgin mailed Loiler at his last known address a copy of the application[5] which was later verified to have been delivered to, and signed by, Loiler on December 16, 2002.[6]

-On January 6, 2003, a copy of the December 13, 2002 transmittal letter was again mailed to Loiler at his last known address as a reminder.[7]

-As of April 14, 2003, when Schurgin executed his declaration, Schurgin did not hear from Loiler.

In view of the above, the Office concludes that Schurgin had made a *bona fide* attempt to present to Loiler, for review and signature, a copy of the entire application (specification including claims; **drawings**[8]) before concluding that Loiler refused to join in this application. The §1.47(a) petition is thus granted. The 4/21/03 Declaration is hereby accepted.

The application is now complete.[9]

In addition, the Office acknowledges receipt with the petition of the $130 petition fee and the $130 surcharge for lacking an acceptable oath/declaration upon filing of the application.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to Loiler at his last known address provided in the petition:

518 Ironwood Terrace #4
Sunnyvale, CA 94086

---

[4] See *supra* note 2.

[5] **The Office assumes, and the instant decision is based on the assumption, that the drawings were included. If this assumption is not correct, counsel must inform the Office in writing upon receipt of this decision.**

[6] Schurgin Declaration, page 2, paragraph 9.

[7] Schurgin Declaration, page 2, paragraph 8.

[8] See *supra* note 5.

[9] The remaining missing items (the basic filing fee and the extra claims fee) were submitted with the petition.

Notice of the filing of this application will also be published in the *Official Gazette*.

The application file is being returned to the Office of Initial Patent Examination for further processing with respect to the 4/21/03 Declaration. Thereafter, the application will be forwarded to the appropriate Technology Center for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

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DIW 11-04

RALPH MACHESKY
11804 W. BELMONT DR.
LITTLETON CO 80127

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NOV 30 2004

OFFICE OF PETITIONS

In re Application of	:	
Ralph Machesky	:	
Application No. 10/267,012	:	ON PETITION
Filed: 8 October, 2002	:	
For: Magnetic Display Apparatus	:	

This is a decision on the petition under 1.137(b),[1] filed on 7 November, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

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

---

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

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

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

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

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

This application became abandoned on 30 September, 2004, for failure to timely reply to the non-final Office action mailed on 29 March, 2004, which set a three (3) month shortened statutory period for reply. A three (3) month extension of time was filed on 29 September, 2004. Notice of Abandonment was mailed on 4 November, 2004.

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. As petitioner has not asserted any grounds for the withdraw of the holding of abandonment, the petition must be dismissed.

The PTO will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.[2]

It is also noted that no reply has been filed with the petition. A grantable petition under 37 CFR 1.137(b) must include a reply to the outstanding Office action as well as the petition fee. As such, a reply should be filed with the petition fee.

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

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

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

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Receipt of the revocation of power of attorney and change of correspondence address is acknowledged. All correspondence will be mailed to the address of record.

---

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Notice Regarding Change of Power of Attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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PETER J. GORDON, PATENT COUNSEL
AVID TECHNOLOGY, INC.
ONE PARK WEST
TEWKSBURY, MA 01876

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FEB 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Robert Olan Keith Jr., et al	:	
Application No. 10/267,052	:	ON PETITION
Filed: October 7, 2002	:	
Attorney Docket No. 7487.0020	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 10, 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 8, 2007, 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 9, 2007.

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

This matter is being referred to Technology Center AU 2162 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

#6

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JUN 22 2004

Office of the Director
Group 3600

Gifford, Krass, Groh, Sprinkle
Anderson & Citkowski, PC
280 N Old Woodard Ave
Suite 400
Birmingham, MI 48009

In re Application of
Scott D. Rier, et al.
Application No. 10/267,064
Filed: October 8, 2002
For: HOSE ASSEMBLY AND METHOD FOR MAKING THE SAME

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on April 15, 2004.

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

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____.

☐ Certificate of Mailing/Transmission signed on _____.
and supported by a statement under 37 C.F.R. 1.8(b)(3).

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

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

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

☒ Originally sent response filed November 24, 2003 has been found and matched with the application.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the originally sent response and then to the examiner for prompt action.

SNM/vdb: 6/19/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

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

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MAR 29 2005

OFFICE OF PETITIONS

In re Application of :
Syed S. Ahmad :
Application No. 10/267,080 : ON PETITION
Filed: October 7, 2002 :
Attorney Docket No. 108298526US1

This is a decision on the petition, filed March 23, 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 31, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be forwarded to Technology Center AU 2841 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAN 9 2004

#4

JOHN M. BRANDT
60 THAXTER ST.
HINGHAM MA 02043

In re Application of	:	
Wade L. Wheelington II.	:	
Serial No.: 10/267,085	:	DECISION ON PETITION
Filed: October 9, 2002	:	
For: Sports Glove With Web Attachment	:	

This is in response to applicants' petition filed December 4, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on infringement.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II. 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

John E. Kittle
Director
Technology Center 3700/2900

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GEITZ TRUCKENMULLER LUCHT
PATENTANWAITE
KRIEGSSTRASSE 234
D-76135
KARLSRUHE
GERMANY

AIR MAIL

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NOV 08 2005

OFFICE OF PETITIONS

In re Application of
Siegfried Hiltebrandt
Application No. 10/267,114
Filed: October 9, 2002
Attorney Docket No. US4037

DECISION ON PETITION
UNDER 37 CFR 1.313(a)

This is a decision on the petition under 37 CFR 1.313(a), filed November 22, 2004, to withdraw the above-identified application from issue.

The petition is **DISMISSED AS MOOT** since this application is now abandoned for failure to timely pay the issue and publication fees on or before January 13, 2005 as required by the Notice of Allowance and Fee(s) Due, mailed October 13, 2004.

Petitioner should note that the mere filing of a petition to withdraw from issue did not stay the period for paying the fees required by the Notice of October 13, 2004. Unless an applicant receives a written communication from the Office that the application has been withdrawn from issue, the issue fee must be timely submitted to avoid abandonment. *Note* MPEP § 1308IA.

In view of the above, the petition to withdraw from issue must be dismissed as involving a moot issue.

Petitioner may wish to consider filing a petition under 37 CFR 1.137 to revive this application.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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Geitz Truckenmuller Lucht
Patentanwalte
Kriegsstrasse 234
D-76135
Karlsruhe DE GERMANY

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JUN 23 2006
OFFICE OF PETITIONS

In re Application of	:	
Siegfried Hiltebrandt	:	
Application No. 10/267,114	:	
Filed: October 9, 2002	:	ON PETITION
Attorney Docket Number:	:	
US4037	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 24, 2006, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, ("Notice"), mailed October 13, 2004. The Notice set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned on January 14, 2005. A Notice of Abandonment was mailed January 18, 2006.

Applicant has submitted the issue fee on November 12, 2005.

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

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 4, 2005

TO SPE OF : ART UNIT -1626

SUBJECT : Request for Certificate of Correction on Patent No.: -6,815,445

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

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

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

Magdalene Talley

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

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

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

Comments:

The report of correction of typographic errors has been checked and accepted.

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

10/30/2006

A.U. 1626

UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 12 2006

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www.uspto.gov

NIXON PEABODY, LLP.
MICHAEL L. GOLDMAN
CLINTON SQUARE
P.O. BOX 31051,
ROCHESTER, NY 14603-1051.

In re Application of	:	
Henry Nicolas Jabbour	:	
Serial No.: 10/267,129	:	PETITION DECISION
Filed: October 08, 2002	:	
Attorney Docket No.: 20747/121	:	

This is in response to the petition under 37 C.F.R. 1.181(f) filed July 27, 2006, to withdraw the restriction requirement.

BACKGROUND

A review of the file history shows that the examiner mailed a Restriction requirement to applicant on February 09, 2005, setting forth a 24 way restriction drawn to methods or kits for a method of treating or preventing a pathological condition of the uterus. The examiner also required applicant to elect a species.

On August 04, 2005, applicant responded with traverse and elected the subject matter relating to EP2 receptor antagonist (not in combination). Applicant argued that the groups were not clearly defined and that it was improper to restrict EP2 and EP4 receptor antagonists, let alone the pathological conditions of the uterus.

The examiner mailed a non-final Office action on October 07, 2005, responding to the traversal that even though the classes and subclasses are the same, the search is burdensome. The examiner also commented on the fact that the EP4 receptors (non-elected subject matter) were still in the claims and the restriction was made Final. The examiner rejected claims 1-5, 9 and 12 under 35 U.S.C. 112 first paragraph as not being enabled for preventing endometriosis using the EP2 receptor antagonist AH6809. Claims 1-5, 9 and 12 were rejected under 35 U.S. C. 102(b), as being anticipated by Hillock et al. and claims 14-23 (typographical error as application had only 14 claims) were rejected under 35 U.S.C. 103(a), as being unpatentable over Hillock et al. Claims 6-8, 10, 11, 13 and 14 were withdrawn from consideration as being drawn to nonelected subject matter.

Applicant responded on January 01, 2006, by amending claims 1, 3, and 12, and canceling claims 2 and 6-10. Applicant continued to argue the "mischaracterization" of the restriction and argued the rejection of claims 1-5, 9 and 12 under 35 U.S.C. § 102 (b) over Hillock et al. Applicant also stated that the rejection of claims 14-23 under 35 U.S.C 103 over Hillock et al. is most likely a typographical error, as there were only claims 1-14 in the application.

The examiner mailed a second non-final Office action on March 21, 2006, again stating that the restriction was proper because EP4 receptor antagonists would involve an undue burden of searching independent and distinct compounds which are not co-extensively searchable with the elected EP2 receptor antagonist. The examiner also made a new ground of rejection of claims 1, 3-5 and 11, 12 under 35 U.S.C. 103(a) as being unpatentable over Munir et al. or Ota et al., in view of Fulton et al., Schmitz et al or Hillock et al.

In response thereto, applicant responded to the Office action of March 21, 2006 with this petition filed July 27, 2006.

DISCUSSION

Applicant petitions that the restriction requirement between the EP2 and EP4 receptor antagonists be withdrawn.

Applicant argues that in response to the restriction requirement, applicant elected to pursue the subject matter relating to use of EP2 receptor antagonists in the claimed method. Applicant also traversed the restriction both generally and specifically as between use of EP2 receptor antagonists and EP4 receptor antagonists, arguing that the PTO failed to satisfy its burden of demonstrating that the restriction was proper. In the office action dated October 7, 2005, the PTO responded to applicant's general arguments, but not to the more particular arguments concerning restriction between use of EP2 receptor antagonists and use of EP4 receptor antagonists. Nevertheless, applicant argues, the PTO made the restriction final.

Applicant also argues that although the receptors EP2 and EP4 are not identical, they are both related as EP receptor subtypes. Given their relatedness, the PTO argument regarding the search burden is disingenuous because in the era of computerized searching, the use of alternative search terms, e.g., "EP2 antagonist" OR "EP4 antagonist", is easily performed. The additional burden is negligible, and thus, a properly tailored database search can certainly cover the entire genus as presently claimed.

Applicant's arguments are not found to be convincing. EP2 and EP4 receptors are not identical and even though the search may be computerized, such a search is carried out in many databases. Also, the search is not just drawn to EP2 and EP4 antagonist "terms" but to the whole class of groups and the different compounds. The compounds also may inherently have the same pathway. Hence, the examiner is correct in saying that the search is burdensome.

DECISION

For these reasons, the Petition under 37 C.F.R. 1.181(f) filed July 27, 2006, to request that the restriction requirement be withdrawn is **DENIED.**

The application will be returned to the examiner for action in response to applicant's amendment filed on July 27, 2006.

Any request for reconsideration of this petition decision must be filed within two (2) months of the mailing date of this decision.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George Elliott
Director, Technology Center 1600

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PTO/SB/83 (03-02)
Approved for use through 10/31/2002. OMB 0651-0035
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REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

Application Numb r	10/267,137
Filing Dat	October 7, 2002
First Named Inventor	Li XIN
Group Art Unit	1646
Examiner Name	Not Assigned
Attorney Docket Number	524282000100

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

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

This request to withdraw is being made at the request of the applicant.

APPROVED
SPRG, TC1600
11/6/03

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

CORRESPONDENCE ADDRESS

[ ] Customer Number [ ] → [ ]
Customer Number

OR

[X] Firm or Individual Name	Institute of Biochemistry & Cell Biology Shanghai Institute of Biological Sciences				
Address	Chinese Academy of Sciences P.O. Box 55,320 Yue Yang Road				
City	Shanghai	State		Zip	200031
Country	PR CHINA	Telephone		Fax	

[X] This request is made on behalf of myself and
- [ ] all attorneys/agents of record,
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [X] the attorneys/agents associated with Customer Number 25225

This request is enclosed in triplicate.

Name	Peng Chen – Reg No. 43,543
Signature	
Date	September 3, 2003

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.

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on the date shown below.

Dated: 9/3/03 Signature: _____ (Matt Russell)

OIPE JC95
SEP 0 5 2003
PATENT & TRADEMARK OFFICE

1646
1647

Please type a plus sign inside this box → [+]

PTO/SB/21 (08-00)
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	10/267,137
Filing Date	October 7, 2002
First Named Inventor	Li XIN
Group Art Unit	1646
Examiner Name	Not Assigned
Total Number of Pages in This Submission: 4	Attorney Docket Number: 524282000100

ENCLOSURES (*check all that apply*)

- [ ] Fee Transmittal Form
  - [ ] Fee Attached
- [ ] Amendment/Reply
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Response to Missing Parts/ Incomplete Application
  - [ ] Response to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Assignment Papers *(for an Application)*
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s) _____
- [ ] After Allowance Communication to Group
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to Group *(Appeal Notice, Brief, Reply Brief)*
- [ ] Proprietary Information
- [ ] Status Letter
- [x] Other Enclosure(s) *(please identify below)*

Request to Withdraw as Attorneys of Record (in triplicate); postcard

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual Name	Peng Chen, Reg. No. 43,543 Morrison & Foerster LLP 3811 Valley Centre Drive, Suite 500, San Diego, CA 92130-2332
Signature	
Date	September 3 2003

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: 9/3/03 Signature: _____ (Matt Russell)

sd-157101

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MAY 27 2004

In re Application of	:	
George O'Neill	:	
Serial No. 10/267,139	:	DECISION ON PETITION
Filed: October 7, 2002	:	TO WITHDRAW AS ATTORNEY
For: GARBAGE BAG SYSTEM	:	

By papers filed on April 26, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the current correspondence address for this application is:

George B. O'Neill
2364 Treescape Street
Charleston, SC 29414

E. Rollins-Cross, Director
Technology Center 3700

Michael S. Neustel (Withdrawing Attorney)
Neustel Law Offices, Ltd.
2534 South University Dr., Suite 4
Fargo, ND 58103

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COMMISSIONER FOR PATENTS
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Paper No. 6

PETERS, VERNY, JONES & SCNMITT, L.L.P.
385 Sherman Avenue, Suite 6
Palo Alto, CA 94306-1827

JAN 16 2004

In re Application of:
FLEMING *et al.*
Serial No.: 10/267,140
Filed: October 07, 2002
Attorney Docket No.: **2983.12-1**

SUA SPONTE
DECISION WITHDRAWING HOLDING OF ABANDONMENT

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

The application was held abandoned for failure to timely file a response to an Office action, mailed on May 27, 2003. A Notice of Abandonment was mailed on December 01, 2003.

A review of the written record indicates that a response was received on November 24, 2003, bearing a certificate of mailing dated November 24, 2003. The response includes a petition for a three (3) month extension of time to extend the time for filing a response to November 27, 2003. Thus, the response filed November 24, 2002, was timely filed.

Accordingly, the Notice of Abandonment mailed on December 01, 2003, was mailed prematurely, and the USPTO apologizes for any inconvenience this may have caused the Applicant.

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner for consideration of the response and further action as necessary.

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

Howard N. Goldberg, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

#3

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 3

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

MAILED

FEB 2 8 2003

Technology Center 2600

In re Application of:
Paul Chang et al
Application No. 10/267,191
Filed: October 8, 2002
For: **TELECOMMUNICATIONS TRANSMISSION TEST SET**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition filed October 8, 2002, under Manual of Patent Examination Procedure §708.02, II: Infringement.

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

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

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

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

The petition meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. After mailing, the application will be forwarded to the examiner for immediate handling.

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

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LAW OFFICES OF MIKIO ISHIMARU
333 W. EL CAMINO REAL
SUITE 330
SUNNYVALE CA 94087

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NOV 25 2008

In re Application of
Paul Chang et al.
Application No. 10/267,191
Filed: October 8, 2002
Attorney Docket No. 21-033.C1

NOTICE

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

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

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

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

Inquiries related to this communication should be directed to JoAnne Burke at (571) 272-4594.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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STEPHEN D. HARPER
HENKEL CORPORATION
LAW DEPARTMENT
2500 RENAISSANCE BLVD., SUITE 200
GULPH MILLS PA 19406

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OFFICE OF PETITIONS

In re Application of	:
Balasubramaniam Ramalingam	: DECISION ON PETITION
Application No. 10/267,200	: UNDER 37 CFR 1.78(a)(6)
Filed: October 9, 2002	:
Attorney Docket No. H3457AUS	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed September 2, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 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)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition fails to comply with item (1) above.

A reference to add the prior-filed application on page one following the first sentence of the specification has been included in an amendment filed on September 2, 2004. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court

drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR § 1.78(a)(6) can be granted, a renewed petition under 37 CFR § 1.78(a)(6) and a substitute amendment[1] deleting the improper incorporation by reference statement is required.

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

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

---

[1] *Note* 37 CFR 1.121

By hand: Customer Window located at:

2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Frances Hicks

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

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GULPH MILLS PA 19406

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MAY 1 3 2005

OFFICE OF PETITIONS

In re Application of	:
Balasubramaniam Ramalingam	: DECISION ON PETITION
Application No. 10/267,200	: UNDER 37 CFR 1.78(a)(6)
Filed: October 9, 2002	:
Attorney Docket No. H3457AUS	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed October 14, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition filed September 2, 2004 was dismissed September 30, 2004 because the amendment filed with the petition improperly incorporated by reference the prior filed application. Comes now petitioner with the instant renewed petition.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim

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

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(iii). Additionally, intermediate application no. 09/304,892 (filed May 4, 1999) was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/086,079, which was filed on May 20, 1998, for which priority is claimed.

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

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

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

The fee for an unintentionally delayed claim of priority in the amount of $1,330.00 was paid with the petition filed September 2, 2004. There is no need for an additional fee and as such, petitioner's deposit account no. 23-3050 will be credited in the amount of $1,370.00 for the duplicate fee authorized with the instant renewed petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the

examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 1733 for appropriate action on the amendment submitted October 14, 2004, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/086,079.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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APR 27 2007

OFFICE OF PETITIONS

In re Application of :
Chin :
Application No. 10/267,202 :
Filed: October 8, 2002 :
Attorney Docket No. 80121-07242 :
For: TISSUE DISSECTION METHOD

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 28, 2007, to revive the above-identified application.

This application became abandoned for failure to timely respond to the final Office action mailed August 3, 2006, which set an extendable three month period for reply. Accordingly, this application became abandoned on November 4, 2006. A Notice of Abandonment was mailed on March 7, 2007.

Applicant has submitted a RCE and required fee and amendment and terminal disclaimers in reply to the August 3, 2006 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the August 3, 2006 final Office action, and the petition fee.

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

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 3734 for consideration of the RCE and amendment and terminal disclaimers filed on March 28, 2007.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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Paper No.

VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

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MAY 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Chulsoo Byun	:	DECISION ON
Application No. 10/267,208	:	PETITION
Filed: October 9, 2002	:	
Title: Method and Apparatus	:	
For Chemical Vapor Deposition	:	
Capable of Preventing	:	
Contamination and Enhancing	:	
Film Growth Rate	:	

This is in response to the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)," filed April 18, 2005.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the Notice of Non-compliant Amendment (37 CFR 1.121) mailed November 4, 2005. This Notice set a TIME PERIOD of ONE MONTH from the mailing date of the notice to supply the corrected section of the non-compliant amendment in compliance with 37 CFR 1.121. No reply having been received, the application became abandoned on December 5, 2005. The instant petition precedes the mailing of a courtesy Notice of Abandonment.

The petition included the required reply in the form of a corrected reply; payment of the petition fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay (and a supplemental statement setting forth the facts and circumstances of the delay). No terminal disclaimer is required.

Receipt of the revocation of power of attorney and change of correspondence address is acknowledged and made of record.

Technology Center AU 1734 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed April 18, 2006.

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
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JAN 28 2005

OFFICE OF PETITIONS

In re Application of
Bartel et al.
Application No. 10/267,213
U.S. Patent No. 6,785,110
For: RF Surge Protection Device
Attorney Docket No: 44251-5700
Pub. No.: US 2003/0073121 A1
Pub. Date: April 17, 2003

: Decision on Petition

This is in response to the "Petition Under 37 CFR § 1.182," filed on September 9, 2004.

The petition is DISMISSED.

Petitioner requests that the patent be reprinted because the Office published the patent with the wrong set of drawings. Petitioner demonstrates that the drawings filed on November 6, 2002 were incorrectly accorded a filing date of June 11, 2002. Because of this error, and because the Office uses the most recently dated documents for printing the patent, the patent was printed with the originally-filed drawings (filed October 9, 2002), instead of the replacement drawings filed on November 6, 2002.

35 U.S.C. 254 and 37 CFR 1.322(b) permit the Director to issue a corrected patent in lieu of and with like effect as a certificate of correction. The Director has exercised this discretion where a certificate of correction was not deemed an appropriate form to reflect required corrections to the patent. In the above-identified patent, however, the correction relates to the drawings, not the text of the patent, and thus can be adequately corrected with a certificate of correction. The petition for a corrected patent is, therefor, dismissed.

It is noted that the drawings filed on November 6, 2002 contain text overlapping the Figures 7A, 7B and 10. It is not clear whether the drawings were filed in this manner. After this decision is mailed, the request for a Certificate of Correction will be treated by Certificate of Correction Division, and Certificate of Correction Division will obtain the original drawings from the Evidence Copy box. If the text does not overlap the drawings in the evidence copy box copy of the drawings (the paper copy of the November 6, 2002 drawings), then a Certificate of Correction will be issued to correct the Office error. If the evidence copy box also contains drawings with such text, or contains drawings that were on such thin paper that the drawings cannot be reproduced without text on the back of the drawings appearing on the drawings, then there was no Office error in using the originally filed drawings because the drawings filed November 6, 2002 were not acceptable.

Questions or request for reconsideration of this decision, should be addressed as follows:

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

By facsimile: (703) 872-9306

Inquires concerning this communication should be directed to undersigned at 571-272-7744.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

Inverness Medical Innovations / WSGR
Wilson Sonsini Goodrich & Rosati, P.C.
650 Page Mill Road
Palo Alto CA 94304

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MAR 26 2009
OFFICE OF PETITIONS

In re Patent No. 7,416,700	:	DECISION DISMISSING
Buechler et al.	:	REQUEST FOR
Application No. 10/267,232	:	RECONSIDERATION OF
Issue Date: August 26, 2008	:	PATENT TERM ADJUSTMENT
Filed: October 8, 2002	:	UNDER 37 CFR § 1.705(d)
Attorney Docket No.: 36671-739.401	:	AND CONCURRENTLY FILED
Title of Invention: IMMUNOASSAY	:	PETITION UNDER
FLUOROMETER	:	37 CFR § 1.705(d)

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT under 37 C.F.R. § 1.705(d)," filed on October 27, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from five hundred and sixty-one (561) days to one thousand and thirty-seven (1037) days.

This is also a decision on the concurrently filed petition pursuant to 37 C.F.R. § 1.183, requesting the waiver of "the Rules."[1]

1 Petition, page 4.

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

The petition pursuant to 37 C.F.R. § 1.183 is **DISMISSED**.

STATUTE AND REGULATION

35 U.S.C. § 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999[2] (AIPA) provides that:

> ADJUSTMENT OF PATENT TERM. —
>
> (1) PATENT TERM GUARANTEES. —
>
> (A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES. — Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to —
>
> (i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after —
>
> (I) the date on which an application was filed under section 111(a) of this title; or
>
> (II) the date on which an international application fulfilled the requirements of section 371 of this title;
>
> (ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;
>
> (iii) act on an application within 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 or a decision by a Federal court under section 141, 145, or 146 in a case in which allowable claims remain in the application; or
>
> (iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied, the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.
>
> (B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION

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[2] Public Law 106-113, 113 Stat. 1501, 1501A-557 through 1501A-560 (1999).

PENDENCY. — 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);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

(C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS. — Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to —

(i) a proceeding under section 135(a);

(ii) the imposition of an order under section 181; or

(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended 1 day for each day of the pendency of the proceeding, order, or review, as the case may be.

(2) LIMITATIONS. —

(A) IN GENERAL. — To the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

The implementing regulation, 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the

Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

(2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

(3) Act on an application not later than four months after the date of a decision by the Boardnot later than four months after the date on which the reply was filed or the appeal was taken;

(3) Act on an application not later than four months after the date of a decision by the Board of Patent Appeals and Interferences under 35 U.S.C. 134 or 135 or a decision by a Federal court under 35 U.S.C. 141, 145, or 146 where at least one allowable claim remains in the application; or

(4) Issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied.

(b) Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the

national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including[3]:

In pertinent part, 37 CFR § 1.703 provides for calculation of the periods, as follows:

Period of adjustment of patent term due to examination delay.

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(2) The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

...

(b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods[4]:

---

[3] (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
(5) Any delay in the processing of the application by the Office that was requested by the applicant.

[4] (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

37 CFR 1.703(f) provides that:

> The adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704. The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

37 C.F.R. § 1.183 sets forth, *in toto*:

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

---

(2)(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and (ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension;

(3)(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181; (ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order was removed; (iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and (iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,

(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

OPINION

Regarding the petition pursuant to Rule 1.705(d):

On August 26, 2008, the application matured into U.S. Patent No. 7,416,700, with a revised patent term adjustment of 561 days. On October 27, 2008,[5] patentees timely submitted this request for reconsideration of patent term adjustment within two months of the issue date of the patent. Patentees argue, citing Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), that it is entitled to a total patent term adjustment of 1037 days, which is the sum of the 1053 days of patent term adjustment due to exceeding the three year pendency plus 476[6] days due to USPTO delay in prosecution, minus the 492 days of applicant delay.

It is noted that the instant patent issued 3 years and 1053 days after its filing date. However, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b) (1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004). In this instance, the period of delay of 1053 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 487 (476 + 11) days attributable to grounds specified in § 1.702(a)(1), and (2). Thus, at issuance, only an additional period of adjustment of 566 days was entered for a total of 1053 days pursuant to § 1.702(b).

---

5 It is noted that October 26, 2008 fell on a Sunday.

6 Patentees fail to address the 11 days of adjustment entered for Office delay in issuing the notice of allowance on April 29, 2008. Nonetheless, it does not appear that this would change their argument as to the patent being entitled to 1037 days of patent term adjustment. This period of delay of 11 days (April 19, 2008 to April 29, 2008) would under patentees argument overlap with the three year period (October 9, 2005 to August 26, 2008).

It follows that the period of adjustment for Office delay was properly calculated to be 1053 days.

In view thereof, the patent issued with a revised patent term adjustment of 561 (1053 - 492) days.

Patentees argue that the determination of 561 days is in error in that pursuant to 35 U.S.C. § 154(b) the Office failed to issue a patent within three years of the actual filing date of the above-referenced application in accordance with 37 CFR § 1.702(b) **and** failed to take certain action within the time frames specified in 37 CFR § 1.702(a).

Specifically, patentees argue that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), is 1053 days.[7] This 1053 day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on October 8, 2002, and the patent having not issued until August 26, 2008, three years and 1053 days later. No request for continued examination was filed in this application.

In short, patentees do not agree with the Office's determination that the period of delay of 1053 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 487 days attributable to grounds specified in § 1.702(a)(1) and (2).

The period of reduction of 492 days for applicant delay is not in dispute.

The period of adjustment for Office delay is in dispute. Patentees have correctly accounted for the 476 days of Office delay attributable to grounds specified in § 1.702(a)(1). Patentees have failed to account for the 11 days of Office delay in issuing the notice of allowance on April 29, 2008. Pursuant to 37 C.F.R. § 1.702(a)(2), the Office is required to respond to a reply under 35 U.S.C. 132 not later than four months after the date on which the reply was filed. A response after ex parte Quayle action was received on December 18, 2007, and a notice of allowance was not mailed until April 29, 2008, which is four months and 11 days after the reply was filed.

---

[7] See petition, page 2.

Patentees maintain that the total patent term adjustment is the Office delay, which is the sum of the period of Three Years Delay (1053 days) and the period of Examination Delay (476 days - which should be 487) to the extent that the periods of Office delay are not overlapping, less the period of Applicant Delay (492 days).

As such, patentees assert entitlement to a patent term adjustment of 1037 days (1053 + 476 reduced by 492). As previously noted, considered the omitted 11 days of Office delay in light of patentees' arguments, it is concluded that with the 11 days of Office delay patentees would still maintain entitlement to 1037 days of patent term adjustment.

The Office agrees that the patent issued 3 years and 1053 days after its filing date. The Office agrees that the actions detailed above were not taken within the specified timeframes, and thus, the entries of periods of adjustment of 487 days for Office delay and 492 days for Applicant delay are correct. At issue is whether the period of delay of 1053 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 487 days attributable to grounds specified in §§ 1.702(a)(1) and 1.702(a)(2).

The Office maintains that the period of 1053 days attributable to the delay in issuance of the patent overlaps with the 487 days attributable to grounds specified in § 1.702(a)(1) and (2), by 487 days. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark*

Office Interpretation of 35 U.S.C. 154(b)(2)(A), the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[8]

As such, the period for over 3 year pendency does not as argued by patentees overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the

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[8] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. Patentees are incorrect in treating the relevant period as starting on October 8, 2005, the date that is 3 years after the actual filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, October 8, 2002 to August 26, 2008. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). During that time, the issuance of the patent was delayed by 476 + 11 + 566 days, not 476 + 1053 days. The Office took 14 months and 476 days to issue a first Office action. In addition, the Office took four months and 11 days to mail a notice of allowance after a response had been filed. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 476 days of Office delay and the subsequent 11 days of Office delay and the 492 days of applicant delay and the time allowed within the timeframes for processing and examination, the patent issued, three years and 1053 days after its filing date. The Office did not delay 487 days and then an additional 1053 days. Not only did the 11 days of Office delay overlap. The 476 days also overlapped. The total 487 days of Office delay contributed to the 1053 days of Office delay in issuance of the patent. Accordingly, an additional 566 days of adjustment (for a total of 1053 days, not 1053 days in addition to the 487 days) was properly entered since the period of delay of 1053 days attributable to the delay in the issuance of the patent overlaps with both the adjustment of 476 days attributable to grounds specified in § 1.702(a)(1) and the adjustment of 11 days attributable to grounds specified in § 1.702(a)(1). Entry of all three periods is not warranted. 1053 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 476 + 11 days during prosecution and the 1053 days over three years. Accordingly, at issuance, the Office properly entered 566 days {1053 - (476 + 11 = 487) days} additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, the Office affirms that the correct revised determination of patent term adjustment at the time of the

issuance of the patent is 561 days. The patent properly issued with this indication contained thereon, and no further action is required.

Regarding the petition pursuant to Rule 1.183:

A grantable petition under Rule 1.183 requires the establishment of an extraordinary situation, such that justice requires the waiver or suspension of a particular Rule.

Patentees have not indicated precisely which "Rules" they seek waiver of, however it appears that they seek to waive the requirements of Rule 1.703(f), since this Rule indicates "the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed."

Patentees have asserted the existence of an "extraordinary situation," but this assertion has not been established. Patentees have not explained what is extraordinary about Patentees who hold a patent which took more than three years to obtain. Moreover, patentees have not asserted, *much less established*, that justice requires the waiver of Rule 1.703(f).

Assuming arguendo that patentees have established the existence of an extraordinary situation, such that justice requires the waiver of Rule 1.703(f), this request cannot be granted. To grant patentees the relief which they have requested would necessitate the concurrent waiver of 35 U.S.C. § 154(b)(2)(A), as this statute explicitly states "the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed." The Office reminds patentees that any request to waive or suspend the requirements of statute pursuant to 37 CFR §1.183 is beyond the discretion or the authority of the Office.

CONCLUSION

Both the $200 fee set forth in 37 CFR § 1.18(e) and the $400 fee set forth in 37 CFR § 1.17(f) will be charged to patentees' Deposit Account in due course. No additional fees are required.

Telephone inquiries specific to this matter should be directed to Paul Shanoski, Senior Attorney, at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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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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OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Zhou et al.	:
Application No. 10/267,236	:
Filed: October 8, 2002	:
Attorney Docket No. 15913.29	:

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 undersigned at (571) 272-3282.

Liana Chase

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

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HASSE & NESBITT LLC
8837 CHAPEL SQUARE DRIVE
SUITE C
CINCINNATI OH 45249

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OFFICE OF PETITIONS

In re Application of	:	
Gardner et al.	:	DECISION ON
Application No.: 10/267,244	:	
Filing Date: October 9, 2002	:	PETITION UNDER
Docket No.: 8746M	:	
For: Textile Finishing Composition	:	37 CFR 1.137(b)
And Methods For Using Same	:	

This is a decision on Petition Under 37 CFR 1.137(b), filed on May 30, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner, in reply to the Notice of Allowance mailed February 17, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 17, 2006. A Notice of Abandonment was mailed on June 28, 2006.

Petitioner has met the requirements for revival under 37 CFR 1.137(b). Petitioner submitted the reply in the form of the Issue Fee, paid the petition fee and made the required statement of unintentional delay. No Terminal Disclaimer is required since this application was filed after June 8, 1995. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

This application is being referred to the Publishing Division.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
on behalf of
Office of Petitions

Telephone: 571-272-3283
Facsimile: 571-273-0459

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WK

Mailed: 7-18-06

In re application of	:	
Charles Anthony Smith	:	DECISION ON
Serial No. 10/267,257	:	PETITION
Filed: October 9, 2002	:	
For: Glass Laminates For Threat Resistant Window Systems	:	

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed February 10, 2006, 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.

DECISION

Petitioner requests that material marked "Proprietary" that was filed with Applicant's response August 11, 2004 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.

10/267,257

The image of the document will be removed from the Official file.

Jacqueline M. Stone

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

Kevin S. Dobson
EI Dupont Denemours and Company
Legal Patent Records Center
Barley Mill Plaza 25/1128
4417 Lancaster Pike
Wilmington, DE 19805

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DORSEY & WHITNEY LLP
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SEATTLE WA 98101

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OFFICE OF PETITIONS

In re Application Ronnie M. Harrison Application No. 10/267,278 Filed: October 8, 2002 Patent No. 6,753,675 Issued: June 22, 2004	DECISION ON PATENT TERM ADJUSTMENT

This is a decision on the "PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. §1.705(d)," filed June 28, 2004, requesting correction of the patent term adjustment (PTA) indicated on the patent from zero (0) days to twenty-two (22) days.[1]

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

On June 22, 2004, the above-identified application matured into U.S. Patent No. 6,753,675. The patent issued with a Patent Term Adjustment of zero (0) days. The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) indicated a patent term adjustment of twenty-two (22) days.

---

[1] The instant application for patent term adjustment is made timely because it was filed within thirty days of the issue date. See 37 C.F.R. § 1.705(d).

Patentee specifically states that the patent issuing from the application is not subject to a terminal disclaimer.

The adjustment of eighty-nine (89) days for the filing of a "Comments on Statement for Reasons of Allowance" has been found to be incorrect.[2] Accordingly, applicant delay with respect to this filing should have been zero (0) days.

However, applicant delay of twenty-nine (29) days should have been assessed pursuant to 37 C.F.R. § 1.704(c)(10) for the filing of an IDS after a Notice of Allowance. The Notice of Allowance was mailed on December 30, 2003. On February 4, 2004, applicants filed an IDS. An examiner's amendment was mailed on March 3, 2004.[3]

In view thereof, the correct determination of PTA at the time of issuance is ZERO (0) days (22 days of PTO delay, reduced by 29 days of applicant delay).

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

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

Kery A. Fries
for

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

---

[2] See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. 111 (June 26, 2001).

[3] The application file history does not reflect that a certification statement was filed under 37 CFR 1.704(d) that would override the reduction under 37 CFR 1.704(c)(10).

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OFFICE OF PETITIONS

In re Application	:
Ronnie M. Harrison	: DECISION ON PATENT TERM
Application No. 10/267,278	: ADJUSTMENT AND NOTICE
Filed: October 8, 2002	: OF INTENT TO ISSUE
Patent No. 6,753,675	: CERTIFICATE OF CORRECTION
Issued: June 22, 2004	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DECISION," filed December 6, 2004, requesting correction of the patent term adjustment (PTA) indicated on the patent from zero (0) days to twenty-two (22) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **GRANTED**.

On June 22, 2004, the above-identified application matured into U.S. Patent No. 6,753,675. The patent issued with a Patent Term Adjustment of zero (0) days. The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) indicated a patent term adjustment of twenty-two (22) days.

By decision mailed November 16, 2004, patentee was informed that twenty-nine (29) days of applicant delay should have been assessed pursuant to 37 C.F.R. § 1.704(c)(10) for the filing of an IDS after a Notice of Allowance. The Notice of Allowance was mailed on December 30, 2003. On February 4, 2004, applicants filed an IDS. An examiner's amendment was mailed on March 3, 2004.[1] the correct determination of PTA at the time of issuance was ZERO (0) days (22 days of PTO delay, reduced by 29 days of applicant delay).

On request for reconsideration, patentee asserts that the IDS was a duplicate of a previously filed IDS, and as such, no applicant delay should have been assessed.

A review of the application file reveals that before February 6, 2004, there was only one other IDS previously filed in the above identified application, specifically the IDS filed on August 18, 2003. However, patentee has supplied a USPTO date stamped postcard receipt, evidencing that an IDS was previously filed with the application papers on October 8, 2002.

In view of the above, it is concluded that the IDS filed on February 4, 2004 was a copy of an IDS previously filed on October 8, 2002. As such, no applicant delay for the IDS submission on February 4, 2004 should have been assessed.

Accordingly, the correct determination of PTA at the time of issuance is **twenty-two (22) days** (22 days of PTO delay, reduced by 0 days of applicant delay).

In view thereof, issuance of a certificate of correction pursuant to 35 U.S.C. 254 and 37 C.F.R. § 1.322 is appropriate.

No fee is required and none has been charged.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 CFR 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **twenty-two (22) days** subject to any disclaimers.

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[1] The application file history does not reflect that a certification statement was filed under 37 CFR 1.704(d) that would override the reduction under 37 CFR 1.704(c)(10).

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

Kery A. Fries
for

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

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FEB 18 2004

#7

Joseph Page
P.O. Box 757
La Jolla CA 92038

In re Application of	:	
T. Connor	:	
Serial No.: 10/267,325	:	DECISION ON PETITION
Filed: October 8, 2002	:	
For: Garment Liner	:	

This is in response to applicants' Petition filed January 28, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on prospective manufacture.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II. 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

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Paper No. 3

William L. Shaffer
TOWNSEND AND TOWNSEND AND CREW, LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

MAR 28 2003

In re Application of:	:	
CHAU *et al.*	:	
Serial No.: 10/267,342	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: October 08, 2002	:	
Attorney Docket No.: 017829-001400US	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 11, 2003.

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

The request meets all the above stated requirements. The request was signed by William L. Shaffer on behalf of himself and all the attorneys associated with Customer No. 20350. There is no outstanding Office action, which requires a response at this time.

The request is APPROVED.

There are no attorneys of record at this time.

All future communications from the Office will be directed to, Henry K. Woodward, at the address indicated below until otherwise notified by applicant.

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

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

cc: Henry K. Woodward
Beyer Weaver & Thomas, LLP, Intellectual Property Law
590 West El Camino Real
Mountain View, CA 94040

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

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JAN 1 8 2005

OFFICE OF PETITIONS

In re Application of	:
Anthony Joseph Aiello	:
Application No. 10/267,351	: DECISION GRANTING PETITION
Filed: October 8, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 146712006100	:

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 October 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 (571) 272-3218.

This matter is being referred to Technology Center AU 2834 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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Paper No. 6

ALLIANCE PHARMACEUTICAL CORP
ATTN: JOHN WURST, PATENT COUNSEL
6175 LUSK BLVD.
SAN DIEGO, CA 92121

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AUG 2 4 2004
OFFICE OF PETITIONS

In re Application of	:	
Ernest G. Schutt	:	
Application No. 10/267,352	:	ON PETITION
Filed: October 9, 2002	:	
Attorney Docket No. ALLIA.080C6	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 13, 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 October 22, 2003, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 23, 2003.

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

The application is being forwarded to Technology Center AU 1617 for further processing.

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

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Paper No. 092004

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

In re Application of:	:	
SZARLETTA et al.	:	PETITION TO ACCEPT COLOR
Serial No.: 10/267,369	:	DRAWINGS
Filed: October 10, 2002	:	UNDER 37 CFR § 1.84(a)(2)
Attorney Docket No.: 3220-69922	:	

This is a decision on the petition filed October 9, 2002 to accept color drawings under 37 CFR § 1.84(a)(2).

The petition is granted and the drawings have been accepted.

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

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Paper No. 092004

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

In re Application of:	:	
SZARLETTA et al.	:	PETITION TO ACCEPT COLOR
Serial No.: 10/267,369	:	DRAWINGS
Filed: October 10, 2002	:	UNDER 37 CFR § 1.84(a)(2)
Attorney Docket No.: 3220-69922	:	

This is a decision on the petition filed October 9, 2002 to accept color drawings under 37 CFR § 1.84(a)(2).

The petition is granted and the drawings have been accepted.

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

SPE J. Lee

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/262,373

Paper No.: _____

DATE : 8/17/05

TO SPE OF : ART UNIT 2881

SUBJECT : Request for Certificate of Correction on Patent No.: 6894298

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:

_____

_____

_____

_____

_____

SPE — Art Unit 2881

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LISA K. JORGENSON
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1310 ELECTRONICS DRIVE
CARROLLTON TX 75006

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JUL 18 2008

In re Application of :
Davide Rizzo et al. :
Application No. 10/267,402 : ON PETITION
Filed: October 8, 2002 :
Attorney Docket No. 01-LJ-107 :

This is a decision on the petition, filed June 17, 2008, to withdraw the holding of abandonment, which is being treated under 37 CFR 1.181.

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

A decision was rendered by the Board of Patent Appeals and Interferences on February 11, 2008 however no request for court review was filed within two months of the decision. Accordingly, a Notice of Abandonment was mailed April 15, 2008. Petitioner argues that in response to the decision rendered February 11, 2008, a Request for Continued Examination (RCE) was filed April 11, 2008, with a certificate of mail dated April 11, 2008.

A search of the application file and the USPTO records reveals that in fact, an RCE and amendment as the submission required under 37 CFR 1.114 was received on April 15, 2008 with a certificate of mail dated April 11, 2008, and is of record.

Accordingly, the response was timely and the Notice of Abandonment mailed April 15, 2008 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 2162 for processing the RCE filed April 15, 2008 (April 11, 2008 certificate of mail date).

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

COMMISSIONER FOR PATENTS
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Paper No. 3

Cynthia B. Rothschild, Esq.
Kilpatrick Stockton LLP
1001 West Fourth Street
Winston-Salem NC 27101

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JAN 27 2003

OFFICE OF PETITIONS

In re Application of Joseph R. Soeller Application No. 10/267,404 Filed: October 9, 2002 Attorney Docket No. 32887-272211 (E71519)	DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed January 8, 2003, requesting that the above-identified application be accorded a filing date of October 9, 2002, rather than the presently accorded filing date of October 10, 2002.

Petitioner alleges that the application was deposited in Express Mail service on October 9, 2002. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EV130841545US. The "date-in" indicated on the Express Mail label is October 9, 2002. Additionally, the Express Mail label contains a United States Postal Service (USPS) stamp of October 9, 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 October 9, 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
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JOHN F. SALAZAR
MIDDLETON & REUTLINGER
2500 BROWN & WILLIAMSON TOWER
LOUISVILLE KY 40202

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DEC 03 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Eric O.M. Haddad et al.
Application No. 10/267,416
Filed: October 9, 2002
Attorney Docket No. ZK525/02033

This is a decision on the petition filed October 19, 2004 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 October 19, 2004 for failure to timely pay the issue fee on or before October 18, 2004. This petition and decision on petition precedes the mailing of the Notice of Abandonment.

The issue fee, petition fee and publication fee, in accordance with 37 CFR 1.18, has been charged to the credit card number provided. 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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SALLY J. BROWN
AUTOLIV ASP, INC.
3350 AIRPORT ROAD
OGDEN, UT 84405

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AUG 2 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Dumbrique et al.	:	
Application No. 10/267,437	:	ON PETITION
Filed: October 8, 2002	:	
Attorney Docket No. 14198	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 16, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed May 10, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 11, 2004.

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

Only a $1330.00 petition fee is due when filing a petition under 37 C.F.R. § 1.137(b). The $130.00 petition fee is unnecessary. Accordingly, it will be refunded to petitioner's credit card.

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

Telephone inquiries should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after 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

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Paper No.10

S.C. JOHNSON & SON, INC.
PATENT SECTION, M.S. 077
1525 HOWE STREET
RACINE, WISCONSIN 53403

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SEP 13 2004

OFFICE OF PETITIONS

In re Application of	:	
Andrea Pedrotti et al	:	
Application No. 10/267,445	:	DECISION DISMISSING PETITION
Filed: October 9, 2002	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. J-3339	:	

This is a decision on the petition filed March 23, 2004, under 37 C.F.R. §1.55(c) requesting acceptance of an unintentionally delayed claim under 35 USC 119(a) through (d) for the benefit of the filing date of foreign Italian Application No. M120A1751, filed July 28, 2000.

The petition is **DISMISSED**.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) the nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and must be supplied on an application data sheet in accordance with 37 CFR 1.76 or on the oath or declaration;

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1)(i) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition is not in compliance with item (2) above.

The instant petition is not in compliance with 37 CFR 1.63(c). A substitute declaration or a proper ADS in compliance with 37 CFR 1.76 is required.

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

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

By hand: Customer Window located at:
U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (703) 305-8859.[1]

Karen Creasy

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

[1] Effective September 27, 2004, the phone number will be 571-272-3208.

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Paper No. 13

S.C. JOHNSON & SON, INC.
PATENT SECTION, M.S. 077
1525 HOWE STREET
RACINE, WISCONSIN 53403

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OCT 20 2004

OFFICE OF PETITIONS

In re Application of	:	
Andrea Pedrotti et al	:	
Application No. 10/267,445	:	DECISION GRANTING PETITION
Filed: October 9, 2002	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. J-3339	:	

This is a decision on the renewed petition filed September 27, 2004, and supplemented on October 18, 1004, which is being treated as a petition under 37 CFR 1.55(c) requesting acceptance of an unintentionally delayed claim under 35 USC 119(a) through (d) for benefit of the filing date of foreign Italian Application No. MI20A1751, filed July 28, 2000.

A petition for acceptance of a claim for foreign priority under 37 CFR 1.55(c) is only applicable to those applications filed on or after November 29, 2000. Further, the nonprovisional application must be filed within 12 months of the filing date of the foreign application. In addition, a petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) must be accompanied by:

> (1) the claim under 35 U.S.C. §119(a)-(d) to the prior foreign 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 and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application

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[1] The claim must identify in the oath or declaration the 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 specifying the application number, country, and the filing date. *Note* also 37 CFR 1.63(c)(2).

or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

The above-identified pending nonprovisional application was filed on October 9, 2002, which is after November 29, 2000. Intermediate Application No. 09/916,275 was filed within 12 months of July 28, 2000 (the filing date of the foreign application to which benefit is now being claimed). On October 18, 2004, an executed application data sheet was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1330 was received with the petition on March 23, 2004. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a) through (d) is **granted.**

A filing receipt accompanies this decision on petition.

This application is being forwarded to Technology Center AU 3742 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a) through (d) and 37 CFR 1.55(c).

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

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

ATTACHMENT: Filing Receipt

UNITED STATES PATENT & TRADEMARK OFFICE

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

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Office of the Director
Group 3600

Garvey, Smith, Nehrbass & Doody, L.L.C.
Three Lakeway Center, Suite 3290
3838 North Causeway Boulevard
Metairie, LA 70002-1767

In re application of
Perry A. Lopez
Application No. 10/267,461
Filed: October 9, 2002
For: METHOD AND APPARATUS FOR HEATING DRILLING AND/OR COMPLETION FLUIDS ENTERING OR LEAVING A WELL BORE DURING OIL AND GAS EXPLORATION AND PRODUTION

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED EXAMINATION)**

This is in response to the petition filed on December 16, 2002 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references.

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

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

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

SUMMARY: Petition to Make Special **GRANTED**.

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

kjd: 1/9/03

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KARL R. CANNON
P.O. BOX 1909
SANDY UT 84091

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AUG 2 7 2004

OFFICE OF PETITIONS

In re Application of :
Wesley L. Mathis :
Application No. 10/267,464 :
Filed: October 9, 2002 :
Attorney Docket No. T9039.CON.CIP :

ON PETITION

This is a decision on the petition, filed August 26, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 10, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3751 will consider the request for continued examination under 37 CFR 1.114.

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

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

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Paper 9

DAVIS, BROWN, KOEHN, SHORS & ROBERTS, P.C.
THE FINANCIAL CENTER
SUITE 2500
666 WALNUT STREET
DES MOINES IA 50309-3993

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OFFICE OF PETITIONS

ON PETITION

In re Application of
John M. Heasley
Application No. 10/267,516
Filed: October 9, 2002
Attorney Docket No. 6656320/14280

This is a decision on the petition filed under 37 CFR 1.137(a)[1] on July 19, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-Final Office Action mailed November 21, 2003. This application became abandoned February 22, 2004. Accordingly, a Notice of Abandonment was mailed June 17, 2004.

Petitioner claims that "the response was, in fact, filed on May 21, 2004 with a request for a 3 month extension of time. In support of petitioner's claim is a copy of petitioner's request for a 3 month extension of time, an amendment and a post card receipt date-stamped by the USPTO on May 24, 2004.

A review of the file reveals that the request for a 3 month extension of time was properly docketed in the USPTO and the fee applied to the finance records, but that the Amendment must have become separated from the other documents. Additionally, the reply included a certificate of mail dated May 21, 2004, pursuant to 37 CFR 1.8.

This application is being forwarded to Technology Center 3732 for appropriate action on the amendment filed in response to the non-Final Office Action mailed November 21, 2003. Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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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)).

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MILA KASAN, PATENT DEPT.
APPLIED BIOSYSTEMS
850 LINCOLN CENTRE DRIVE
FOSTER CITY CA 94404

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AUG 21 2006
OFFICE OF PETITIONS

In re Application of :
Xiongwei Yan et al :
Application No. 10/267,551 :
Filed: October 8, 2002 :
Attorney Docket No. 4456C1 :

ON PETITION

This is a decision on the petition, filed August 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 June 30, 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 1616 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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BRINKS HOFER GILSON & LIONE/
YAHOO! OVERTURE
P.O. BOX 10395
CHICAGO IL 60610

In re Application of	:	
Leishman et al.	:	
Application No. 10/267,557	:	LETTER REGARDING
Filed: October 9, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 9623/509	:	

This is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT" filed August 21, 2009. Pursuant to applicants' duty of good faith and candor to the Office, applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is four hundred ninety-one (491) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On July 9, 2009, 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 is 562 days. On August 21, 2009, applicants submitted the instant comment. Applicants disclose that applicants believe that the patent term adjustment indicated on the Determination of Patent Term Adjustment appears to be longer than appropriate. Applicants do not state a basis for the request for review of the patent term adjustment.

A review of the application history reveals that on December 20, 2007, applicants submitted a supplemental reply or paper in the form of an Information Disclosure Statement (IDS) after filing a reply to the non-final Office action on October 9, 2007. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed December 20, 2007, reveals that applicants did not include a statement under 37 CFR 1.704(d).[1] Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application. Accordingly, the period of adjustment should have been reduced by 71 days pursuant to 37 CFR 1.704(c)(8), counting the number of days beginning on the day after the date the initial reply was filed, October 10, 2007, and ending on the date that the IDS was filed, December 20, 2007. Accordingly, a period of reduction of 71 days is being entered.

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is 491 days.

As this letter was submitted to advise the Office of an error in applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for applicants' good faith and candor in bringing this to the attention of the Office.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the

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[1] Pursuant to 37 CFR § 1.704(d):

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

for

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Wednesday

PALM INTRANET

Date: 3/17/2010
Time: 13:28:59

PTA Calculations for Application: 10/267557			
Application Filing Date:	10/09/2002	PTO Delay (PTO):	821
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	259
Post-Issue Petitions:	0	Total PTA (days):	491
PTO Delay Adjustment:	-71		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
103	03/17/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		71	
83	07/09/2009	MAIL NOTICE OF ALLOWANCE	35		67
82	07/07/2009	ISSUE REVISION COMPLETED			
81	07/07/2009	DOCUMENT VERIFICATION			
80	07/07/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
79	06/16/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
78	07/06/2009	EXAMINER'S AMENDMENT COMMUNICATION			
77	07/06/2009	NOTICE OF ALLOWABILITY			
74	04/27/2009	APPEAL BRIEF REVIEW COMPLETE			
73	04/27/2009	DATE FORWARDED TO EXAMINER			
72	04/09/2009	APPEAL BRIEF FILED			
71	03/31/2009	CASE DOCKETED TO EXAMINER IN GAU			
70	03/09/2009	NOTICE -- DEFECTIVE APPEAL BRIEF			
69	03/03/2009	APPEAL BRIEF REVIEW COMPLETE			
68	03/03/2009	DATE FORWARDED TO EXAMINER			
67.1	02/04/2009	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
67	02/04/2009	APPEAL BRIEF FILED			
66	02/09/2009	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
65	01/21/2009	CORRESPONDENCE ADDRESS CHANGE			
64	12/04/2008	NOTICE OF APPEAL FILED		29	57
63	12/04/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
62	10/17/2008	MAIL ADVISORY ACTION (PTOL - 303)			

61	10/16/2008	ADVISORY ACTION (PTOL-303)			
60	10/06/2008	DATE FORWARDED TO EXAMINER			
59	10/03/2008	AMENDMENT AFTER FINAL REJECTION			
58	08/19/2008	CASE DOCKETED TO EXAMINER IN GAU			
57	08/05/2008	MAIL FINAL REJECTION (PTOL - 326)	8		54
56	08/04/2008	FINAL REJECTION			
55	05/23/2008	DATE FORWARDED TO EXAMINER			
54	03/28/2008	RESPONSE AFTER NON-FINAL ACTION			
53	03/28/2008	MISCELLANEOUS INCOMING LETTER			
52	12/20/2007	REFERENCE CAPTURE ON IDS			
51	12/20/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	01/02/2008	MAIL NON-FINAL REJECTION			
49	12/26/2007	NON-FINAL REJECTION			
48	12/20/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
47	12/20/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	10/29/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
45	10/29/2007	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
44	10/09/2007	NEW OR ADDITIONAL DRAWING FILED			
43	10/12/2007	DATE FORWARDED TO EXAMINER			
42	10/09/2007	RESPONSE AFTER NON-FINAL ACTION		92	40
41	10/09/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
40	04/09/2007	MAIL NON-FINAL REJECTION			
39	04/02/2007	NON-FINAL REJECTION			
38	01/11/2007	DATE FORWARDED TO EXAMINER			
37	12/26/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
36	01/11/2007	DATE FORWARDED TO EXAMINER			
35	12/26/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		62	30
34	01/11/2007	DISPOSAL FOR A RCE / CPA / R129			
33	12/26/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
32	12/26/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
30	07/25/2006	MAIL FINAL REJECTION (PTOL - 326)			

29	07/24/2006	FINAL REJECTION			
28	07/10/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27.7	07/10/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		45	25
27	07/10/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	06/06/2006	DATE FORWARDED TO EXAMINER			
25	05/26/2006	RESPONSE AFTER NON-FINAL ACTION		31	22
24	05/26/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
22	01/25/2006	MAIL NON-FINAL REJECTION	778		-1
21	01/23/2006	NON-FINAL REJECTION			
20	02/14/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	10/27/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
18	03/08/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
17	02/24/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
16.7	02/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	02/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15.7	10/27/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	10/27/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	02/08/2005	CASE DOCKETED TO EXAMINER IN GAU			
13	02/08/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	02/08/2005	CASE DOCKETED TO EXAMINER IN GAU			
11	01/13/2005	CASE DOCKETED TO EXAMINER IN GAU			
10	07/13/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	07/13/2004	REFERENCE CAPTURE ON IDS			
8.7	03/08/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	03/08/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7.7	02/24/2003	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
7	02/24/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	12/13/2002	CASE DOCKETED TO EXAMINER IN GAU			
5	11/07/2002	APPLICATION DISPATCHED FROM OIPE			
4	11/06/2002	APPLICATION IS NOW COMPLETE			
2	10/17/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/09/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. None

Joseph T. Guy Ph.D.
Nexsen Pruet Jacobs & Pollard LLP
201 W. McBee Avenue
Greenville SC 29603

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MAR 0 3 2006

OFFICE OF PETITIONS

In re Application of
Kris Viaene
Application No. 10/267,562
Filed: October 9, 2002
Attorney Docket Number: 27500-116
Title: SILVER HALIDE PHOTOGRAPHIC MATERIAL SHOWING IMPROVED LATENT IMAGE STABILITY

DECISION ON PETITION UNDER 37 C.F.R. §1.181(A)

This is a decision on the petition under 37 CFR §1.181(a), filed March 18, 2004, to withdraw the holding of abandonment.

The Office regrets the delay in issuing this decision.

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed June 24, 2003, which set a shortened statutory period to reply for one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were received. Accordingly, the above-identified application became abandoned on July 25, 2003. A Notice of abandonment was mailed on March 19, 2004.

The electronic file has been reviewed, and a copy of a response to the restriction requirement has been located. It appears that it was timely received on July 23, 2003, but was not matched with the file for some time, due to a plurality of typographical errors which appear in the header of the election submission. It is further noted that subsequent to the submission of this petition, a letter was mailed by the Office on January 30, 2006, withdrawing the holding of abandonment. It is further noted that the letter contains a typographical error as to the date on which the election was received.

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

It is noted that Petitioner has submitted a petition fee of $130. Since petitions under this section of the CFR do not carry a fee, this payment will be refunded to Petitioner's Deposit Account in due course.

It is further noted that in his petition, Petitioner listed the inventorship as "Viaene et al," whereas the declaration which was submitted on filing indicates that Mr. Viaene is the sole inventor. The Office will presume that the "et al." is a typographical error. Petitioner must notify the Office if this presumption is incorrect.

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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Paper No. 5

GREER, BURNS & CRAIN, LTD
Suite 2500
300 S. Wacker Drive
Chicago IL 60606

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APR 1 6 2003

OFFICE OF PETITIONS

In re Application of	:	
Sperling, et al.	:	
Application No. 10/267,578	:	DECISION GRANTING PETITION
Filed: October 9, 2002	:	
Attorney Docket No. 2322.66979	:	

This is a decision on the petition under 37 CFR 1.10(c), filed February 25, 2003 (certificate of mailing date February 20, 2003), requesting that the above-identified application be accorded a filing date of October 9, 2002, rather than the presently accorded filing date of October 10, 2002.

Petitioners contend that the above-identified application was deposited in the United States Postal Service (USPS) Express Mail service on October 9, 2002. In support of this contention, petitioners have supplied with the present petition a copy of Express Mail Receipt No. EL846173154US bearing a "date-in" of October 9, 2002. The original Nonprovisional Patent Application Transmittal found in the application file and resubmitted with the present petition has transcribed on its front page the following Express Mail Receipt Number: EL846173154US.

In view of the above, the petition is **granted**. No fee is associated with this petition.

This application file is being forwarded to the Office of Initial Patent Examination (OIPE)for further processing with a filing date of **October 9, 2002.** It is noted that petitioners properly claimed foreign priority benefit of German patent application no. 101 49 780.6, filed October 9, 2001. OIPE will mail a corrected filing receipt setting forth the October 9, 2002 filing date for the above-identified application, as well as the claim for foreign priority to German patent application no. 101 49 780.6.

Thereafter, this application file will be forwarded to Technology Center 2800 for examination in due course.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

#3
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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TC 3600

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

In re application of
Russell L. Strothmann et al.
Application No. 10/267,581 :
Filed: October 10, 2002 :
For: METHODS, SYSTEMS, AND ARTICLES OF MANUFACTURE FOR PROVIDING FARE TREND INFORMATION :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on December 24, 2002, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with conditions A) and B) above

As to condition A), the attorney signing the request does not have power of attorney in this application.

As to condition B), a proper reason for withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868
(703) 605-0586 (facsimile)

SNM/tpl: 3/7/03

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : _____ **Paper No.:** _____

TO : _____

SUBJECT : Certificate of Correction Request in Patent No.: 6,768,176

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

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

_____

Certificates of Correction Branch

PLEASE COMPLETE THIS FORM AND RETURN WITH FILE, WITHIN 7 DAYS,
TO CERTIFICATES OF CORRECTION BRANCH - PK 3-915
PALM LOCATION 7580 - TEL. N0. 305-8309

THANK YOU FOR YOUR ASSISTANCE!

Note your decision by placing a check mark in the appropriate box below, indicating whether all changes requested in the Request for Certificate of Correction should be applied. Please specify which changes should not be applied and indicate the reason(s) for denial, in the "Comments" section below.

[X] **YES** [ ] **NO**

PUBLISH

[ ] **Comments:**

The Certificate of Corrections should read as specified in PTO 1050 filed 12/13/2004.

OLIK CHAUDHURI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Supervisor

2823

Art Unit

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United States Patent and Trademark Office
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JUL 13 2005

In re Application of	:	
Michael K. Sanders	:	DECISION ON PETITION
Serial No. 10/267,622	:	
Filed: October 9, 2002	:	
For: AUTOMATED SWEEPSTAKES GAME	:	

This is a decision on the petition to make special filed on September 13, 2004. The petition is submitted pursuant to the practice established in MPEP § 708.02(II) "Infringement." The $130.00 petition fee has been received.

The petition is granted.

A review of the petition shows that petitioners have satisfied all of the requirements of the above-cited MPEP section. 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 Supervisory Patent Examiner of Patent Examining Art Unit 3713 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent there with this decision.

PETITION GRANTED.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

Douglas W. Kim
P.O. Box 10827
Greenville, SC 29603-0827

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OFFICE OF PETITIONS

Craig K. Leon, Esq.
W. R. Grace & Co.-Conn.
Patent Department
62 Whittemore Avenue
Cambridge, MA 02140-1692

In re Application of :
Gu, et al. :
Application No. 10/267,631 : ON PETITION
Filed: July 8, 2002 :
Attorney Docket No.: 13695-02 :

This is in response to the petition, filed October 29, 2002 under 37 CFR 1.181 and/or 37 CFR 1.182, requesting that the above-identified application be accorded a filing date of July 8, 2002. This petition is being treated under 37 CFR 1.10(e).

Petitioner alleges that the application was deposited in Express Mail service on July 8, 2002. Petitioner has provided evidence to this effect, including a copy of an "Express Mail Post Office to Addressee" mailing label bearing label number EV128937754US. The same Express Mail label number appears on the copy of the original Application Transmittal Letter submitted with the instant petition.

In view of the above, the petition under 37 CFR 1.10(e) to accord the above-identified application a filing date of July 8, 2002 is hereby **GRANTED**.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of July 8, 2002 using the copy of the application supplied October 9, 2002.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/3/04

TO SPE OF : ART UNIT 1762

SUBJECT : Request for Certificate of Correction for Appl. No.: 10267667 Patent No.: 6960258

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. 115

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

TIMOTHY MEEKS
SUPERVISORY PATENT EXAMINER

SPE

1762
Art Unit

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Paper No. 9

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

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OFFICE OF PETITIONS

In re Application of BOLOGNESI, et al. Application No. 10/267,682 Filed: October 9, 2002 Attorney Docket No. 7872-085-999	: : : : :	DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed July 8, 2003, requesting that the above-identified application be accorded a filing date of October 9, 2002, rather than the presently accorded filing date of January 6, 2003.

Petitioner alleges that the application was deposited in Express Mail service on October 9, 2002. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EL500576352US. Although the "date-in" indicated on the Express Mail label is not legible, the Express Mail label contains a United States Postal Service (USPS) stamp of October 9, 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 October 9, 2002.

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Thomas L. Irving
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

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OCT 2 4 2003

OFFICE OF PETITIONS

Applicant: Ramin
Appl. No.: 10/267,683
Filing Date: October 10, 2002
Title: MAKE-UP COMPOSITION COMPRISING A LIQUID CRYSTAL POLYMER
Attorney Docket No.: 05725.1122
Pub. No.: US 2003/0118622 A1
Pub. Date: June 26, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on August 26, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains an errors in claim 55.

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

The typographical error in claim 55, wherein the phrase "Y^1 - A^1 - M^1- A^2 - Y^2" is misspelled as "Y^1 - A - M^1 - A 2 - Y^2" is an Office error, but it is a minor typographical error which is understandable from reading the claim in which the term is used, as terms are not read in a vacuum. The definition for A^1 and A^2 are just below the formula and they are the only definitions provided for A^1 and A^2. The misspelling is a minor typographical error, which is clearly understandable from reading the specification and claims, as words are not read in a vacuum. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

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

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

application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

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

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

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 1615 to await further examination in due course.

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

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

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JUL 31

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~~JUL 30 2002~~

RECEIVED: 8-5-02
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 11-8-02
Type of Resp(s):
Due Date(s):

MAR 14 2003

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

In re Application of	: RESPONSE TO PETITION
Vierira, et al.	: UNDER 37 CFR 1.182
Application No. 09/908,888	: SEEKING SPECIAL
Filed: July 20, 2001	: TREATMENT OF DISCLOSURE
For: Fabrication Of A Wavelength	: STATEMENTS, AND
Locker Within A Semiconductor	: DECISION ON PETITION
Structure	: UNDER 37 CFR 1.183
Attorney Docket No. 211692US99	: SEEKING WAIVER OF
	: REQUIREMENTS UNDER
	: 37 CFR 1.98

This is a response to a petition under 37 CFR 1.182 filed on April 12, 2002 and supplements filed on July 1, 2002 and on July 12, 2002. The § 1.182 petition requests special treatment of disclosure statements filed pursuant to 37 CFR 1.98. Additionally, the petition requests waiver of the rules which waiver is treated as a request under 37 CFR 1.183, for relief from the current requirements for Information Disclosure Statements under 37 CFR 1.98. The request for special treatment and waiver are made in view of the need to file multiple applications relating to different aspects of a particular invention. The § 1.182 petition also contains a request seeking permission to submit prior art submissions on compact disc and the establishment and searching of an Official classification(s) based on the prior art submission. The petition under 37 CFR 1.183, is requesting relief from the § 1.98 provision which requires filing paper copies of references in each of many related applications where the references are being cited by Petitioner.

The petition under 37 CFR 1.182 requesting special treatment of disclosure statements, and the petition under 37 CFR 1.183 regarding the submission of a reduced number of paper copies of IDS references is **GRANTED IN PART** to the extent set forth below.

The Decision is set forth in five parts:

- Part I. Background
- Part II. Petition Under 37 CFR 1.182 - Special Treatment
- Part III. Petition Under 37 CFR 1.183 - Paper Copies
- Part IV. Summary
- Part V. Further Correspondence

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Part I. Background

The instant application filed under 35 U.S.C. 111 is one of about 330 U.S. applications (either filed or to be filed) relating to

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different aspects of an invention listed in the July 1, 2002 supplement to the petition. An appendix prepared by Technology Center 2800 indicates approximately 300 of the applications have been classified for examination in Technology Center 2800. The balance of about 30 applications are in five other Technology Centers. The July 12, 2002 supplement to the petition indicates that an Information Disclosure Citation List has in excess of 400 reference citations.

Petitioner's submission of an Information Disclosure Statement is taken as an attempt to comply with 37 CFR 1.56(b)(1) that requires disclosure to the Office of information that "establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim...." Such disclosure can be made by an Information Disclosure Statement (IDS) in the manner prescribed by 37 CFR 1.97 and 1.98.

Part II. Petition Under 37 CFR 1.182 - Special Treatment

The petition requests the establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

As is the case with all search Digests, their creation and usefulness is continually evaluated. The Office will create and place appropriate references in Digests as they are discovered. The Office will not commit to placement of each IDS citation, made in all of the bulk filing applications, in any Digest(s) as the particular relevancy of the citations at this time is uncertain because petitioner has supplied no explanation of any of the citations. The Office will not require that any digest(s) created be searched for each of the bulk filing applications as the appropriate search for any particular application is within the determination and discretion of individual examiner based on the claim(s) of that application.

The petition also mentions the submission of additional copies of the references on compact disc for the examiner's convenience which appear to be courtesy copies. Courtesy copies will not be made part of the Official record of any application and cannot be relied upon for meeting any requirement for the submission of an information disclosure statement. There is insufficient information in the petition concerning the data formats and software requirements to accord the compact discs any other status. Further, as discussed below, the Office has a procedure for electronically submitting citations without paper copies for an Information Disclosure Statement. Hence it is not clear why relief is required under § 1.182. In view of the relief granted below, and that no specific action is requested concerning the compact disc submission, no further discussion of the compact discs is required in this decision.

Petition under § 1.182 is Dismissed.

Part III. Petition Under 37 CFR 1.183 - Paper Copies

37 CFR 1.98 requires that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. See also MPEP 609, pages 600-118 and 600-119.

Paper copies: Petitioner notes that the instant application is one of about 330 bulk filing applications that will be or have been filed in regard to a particular technology. Accordingly, Petitioner requests that individual paper copies of each citation brought to the attention of the Office in regard to the instant individual application, the "holding" application, not be required to be submitted in each related "bulk filing" application. Rather, it is requested that three complete sets of paper copies be permitted to be filed as a substitute for filing in each application.

Rather than be required to submit, via a paper copy, 400 reference in each of 330 applications, Petitioner seeks to have:

(1) Three complete sets of paper copies of each IDS citation submitted;

(2) One application (the instant application) identified as a "holding" application which would contain one complete set of paper copies of references; the paper copies of U.S. patents to be submitted in only the "holding" application;

(3) The other related pending U.S. applications, hereafter referred to as the "bulk filing" applications, be exempt from containing a paper set of the references; the bulk filing applications will contain other information, e.g., a copy of the decision on petition permitting such procedure, a copy of the Form 1449 (or equivalent). The petition does not indicate whether the paper references that are to be submitted as a numbered compendium, which numbering will correspond to the numbering in a PTO-1449 form.

(4) The information supplied via the bulk filing IDS will be updated approximately monthly.

Once past the initial IDS submission, the petition proposes the waiver to apply to updates.

Suspension of action: In view of the use of the instant application as a holding application (to contain a complete set of paper copies of reference citations, which can be consulted by the examiner when examining any of the other bulk filing applications that have a Form 1449 but not the paper copies of the references), the petition does not address how upon allowance the instant holding application will be treated. Whether the application can remain as the holding application without a suspension of action is not addressed. An alternative not discussed in the petition is that an alternate application may be designated as the holding application.

Termination: Petitioner does not seek a specific right of termination. Termination by the Office is to be by written notice to the attorney giving a 2 month period. Termination by Petitioner is to be by returning to compliance with 37 CFR § 1.98. The Office will accept and specifically reserve the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Termination by Applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

Different Technology Centers: It appears from the petition that Petitioner intends to cite every reference cited in any of the 330 applications in every other application. No references will be omitted because they are less relevant or cumulative of those already of record in a particular application. At least 30 of the applications are of such divergent technologies that they are in 5 technology centers outside Technology Center 2800. The applications outside Technology Center 2800 will be examined in areas without convenient access to the paper copies in Technology Center 2800. The 5 other technology centers have requested more access to the paper copies than the relief granting this petition for all 330 applications will afford. It is not clear from the petition why citing every reference in every application when they are in such diverse technologies is necessary or required by § 1.56. Relieving petitioner of the burden of filing paper copies in applications outside Technology Center 2800 will create an additional burden on the examiners of those applications. It is also possible for applicant to comply with 37 CFR 1.98 for U.S. Patents and Patent application publications by submitting references via "e-IDS.[1]" Hence it appears that petitioner has not demonstrated why a waiver for those applications filed outside Technology Center 2800 is necessary.

Decision: 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes. The instant petition urges that not only would applicant be spared the necessity of submitting duplicative paper copies of U.S. patents in over 300 applications, but also the Office would benefit from not having to handle and store the duplicative sets of copies. While there may be some negative effects from the Office's point of view in terms of making the copies available to different examiners handling the various applications, on balance, there is seen to be sufficient benefit to justify waiver in this instance for the applications filed in Technology Center 2800. With respect to those applications being examined outside

---

[1]The instructions for submitting an e-IDS can be downloaded at: http://www.uspto.gov/ebc/efs/downloads/documents/EFSePAVE_April23.pdf.

Technology Center 2800, on balance, the burden on petitioner is substantially less to provide an additional paper copy for each application with significantly less benefit to the Office waiving the requirement. Further with respect to other 30 applications the need to submit these references has not been established nor has petitioner addressed alternative methods of compliance.

Accordingly, the petition under 37 CFR 1.183 is granted to the extent indicated and under the terms and conditions as are set forth below.

The § 1.98(a)(2) requirement for (the submission of) a copy of each IDS citation in a bulk filing application will be waived in the bulk filing applications examined in Technology Center 2800 provided that the following 9 conditions are complied with:

1) Three paper copies of each IDS citation are or have been submitted to the Office;

2) Each (bulk filing) application for which waiver of § 1.98(a)(2) is desired refers to the instant holding application, such as by a claim of priority under 35 U.S.C. 120, or as containing related technology;

3) The information is or has also been cited in the holding application;

Note: Applicant is not required to cite in each bulk filing application every item of information that is cited in the instant holding application. Items should be cited in each bulk filing application on the basis of relevancy and materiality to the particular claims in the bulk filing application and what each piece of information teaches.

A waiver is not granted (for the requirement to supply a paper copy of an IDS citation in another bulk filing application) where the citation is not, or has not been, made in the instant holding application.

4) A copy of this Decision is filed in each bulk filing application for which waiver is requested;

5) Explanatory information related to a particular citation, such as the concise explanation of a foreign language reference under § 1.98(a)(2), once submitted in the holding application must be supplied in each bulk filing application where the citation is made.

6) The Office accepts and specifically reserves the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. Termination by applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

7) The grant of the § 1.183 petition re § 1.98(a)(2) does

not indicate that the Office would favorably treat a petition to suspend action under § 1.103(a) should the instant holding application be allowed. Issuance of the instant application as a patent is not seen to terminate its usefulness either: (1) as a holding application for references by examiners working on other related applications, or (2) as a vehicle for the storage of references to be cited even after the patent issues (35 U.S.C. 301, 37 CFR 1.501, and MPEP 2202). Should the instant application become abandoned, the issue of continued introduction of paper copies of new citations could be taken up at that time. The Office, however, may consider suspending or taking other appropriate action in the instant holding application in the event the holding application is allowed, if it is in the best interest of the Office to do so.

8) There will be no waiver of any aspects of 37 CFR 1.98 in any application after allowance or final rejection of that application.

9) The copies will be submitted as a compendium with the reference numbering in the Form 1449 corresponding to the presentation of the references in the compendium.

Part IV. Summary

The petition under 37 CFR 1.182 requesting special treatment by creation of special digests and accepting compact disc submissions is dismissed because there is no showing that the relief granted below under 37 CFR 1.183 is not sufficient for compliance with 37 CFR 1.56.

The petition under 37 CFR 1.183 agreeing to supply three copies of each IDS citation in a holding application and requesting waiver of the paper copy requirement for submission in every related application under § 1.98(a)(2) is granted for those applications examined in Technology Center 2800, however, the following is not agreed to:

- the waiver of supplying a paper copy of each reference in applications examined outside Technology Center 2800.
- the creation of Official search classifications and the mandatory search thereof.
- The establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

Part V. Further Correspondence

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

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

TC Assignment Appendix
Bulk Filing List With TC Assignment

OIPE JC109 MAR 1 4 2003 PATENT & TRADEMARK OFFICE

Docket Number	Application #	Art Unit
	10125540	1631
	9984471	1641
	9624877	1725
	9911539	1725
	9911493	1743
	9832354	1753
	9842735	1765
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Docket Number	Application #	Art Unit
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Docket Number	Application #	Art Unit
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Docket Number	Application #	Art Unit
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	09607722	3736

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By FAX: (703) 872-9005

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

Telephone inquiries should be directed to Michael L. Lewis at (703)306-5585.

Robert J. Spar
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: TC Assignment Appendix

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Due Date(s):

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In re Application of	: RESPONSE TO PETITION
Vierira, et al.	: UNDER 37 CFR 1.182
Application No. 09/908,888	: SEEKING SPECIAL
Filed: July 20, 2001	: TREATMENT OF DISCLOSURE
For: Fabrication Of A Wavelength	: STATEMENTS, AND
Locker Within A Semiconductor	: DECISION ON PETITION
Structure	: UNDER 37 CFR 1.183
Attorney Docket No. 211692US99	: SEEKING WAIVER OF
	: REQUIREMENTS UNDER
	: 37 CFR 1.98

This is a response to a petition under 37 CFR 1.182 filed on April 12, 2002 and supplements filed on July 1, 2002 and on July 12, 2002. The § 1.182 petition requests special treatment of disclosure statements filed pursuant to 37 CFR 1.98. Additionally, the petition requests waiver of the rules which waiver is treated as a request under 37 CFR 1.183, for relief from the current requirements for Information Disclosure Statements under 37 CFR 1.98. The request for special treatment and waiver are made in view of the need to file multiple applications relating to different aspects of a particular invention. The § 1.182 petition also contains a request seeking permission to submit prior art submissions on compact disc and the establishment and searching of an Official classification(s) based on the prior art submission. The petition under 37 CFR 1.183, is requesting relief from the § 1.98 provision which requires filing paper copies of references in each of many related applications where the references are being cited by Petitioner.

The petition under 37 CFR 1.182 requesting special treatment of disclosure statements, and the petition under 37 CFR 1.183 regarding the submission of a reduced number of paper copies of IDS references is **GRANTED IN PART** to the extent set forth below.

The Decision is set forth in five parts:

- Part I. Background
- Part II. Petition Under 37 CFR 1.182 - Special Treatment
- Part III. Petition Under 37 CFR 1.183 - Paper Copies
- Part IV. Summary
- Part V. Further Correspondence

Part I. Background

The instant application filed under 35 U.S.C. 111 is one of about 330 U.S. applications (either filed or to be filed) relating to

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different aspects of an invention listed in the July 1, 2002 supplement to the petition. An appendix prepared by Technology Center 2800 indicates approximately 300 of the applications have been classified for examination in Technology Center 2800. The balance of about 30 applications are in five other Technology Centers. The July 12, 2002 supplement to the petition indicates that an Information Disclosure Citation List has in excess of 400 reference citations.

Petitioner's submission of an Information Disclosure Statement is taken as an attempt to comply with 37 CFR 1.56(b)(1) that requires disclosure to the Office of information that "establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim...." Such disclosure can be made by an Information Disclosure Statement (IDS) in the manner prescribed by 37 CFR 1.97 and 1.98.

Part II. Petition Under 37 CFR 1.182 - Special Treatment

The petition requests the establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

As is the case with all search Digests, their creation and usefulness is continually evaluated. The Office will create and place appropriate references in Digests as they are discovered. The Office will not commit to placement of each IDS citation, made in all of the bulk filing applications, in any Digest(s) as the particular relevancy of the citations at this time is uncertain because petitioner has supplied no explanation of any of the citations. The Office will not require that any digest(s) created be searched for each of the bulk filing applications as the appropriate search for any particular application is within the determination and discretion of individual examiner based on the claim(s) of that application.

The petition also mentions the submission of additional copies of the references on compact disc for the examiner's convenience which appear to be courtesy copies. Courtesy copies will not be made part of the Official record of any application and cannot be relied upon for meeting any requirement for the submission of an information disclosure statement. There is insufficient information in the petition concerning the data formats and software requirements to accord the compact discs any other status. Further, as discussed below, the Office has a procedure for electronically submitting citations without paper copies for an Information Disclosure Statement. Hence it is not clear why relief is required under § 1.182. In view of the relief granted below, and that no specific action is requested concerning the compact disc submission, no further discussion of the compact discs is required in this decision.

Petition under § 1.182 is Dismissed.

Part III. Petition Under 37 CFR 1.183 - Paper Copies

37 CFR 1.98 requires that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. See also MPEP 609, pages 600-118 and 600-119.

Paper copies: Petitioner notes that the instant application is one of about 330 bulk filing applications that will be or have been filed in regard to a particular technology. Accordingly, Petitioner requests that individual paper copies of each citation brought to the attention of the Office in regard to the instant individual application, the "holding" application, not be required to be submitted in each related "bulk filing" application. Rather, it is requested that three complete sets of paper copies be permitted to be filed as a substitute for filing in each application.

Rather than be required to submit, via a paper copy, 400 reference in each of 330 applications, Petitioner seeks to have:

(1) Three complete sets of paper copies of each IDS citation submitted;

(2) One application (the instant application) identified as a "holding" application which would contain one complete set of paper copies of references; the paper copies of U.S. patents to be submitted in only the "holding" application;

(3) The other related pending U.S. applications, hereafter referred to as the "bulk filing" applications, be exempt from containing a paper set of the references; the bulk filing applications will contain other information, e.g., a copy of the decision on petition permitting such procedure, a copy of the Form 1449 (or equivalent). The petition does not indicate whether the paper references that are to be submitted as a numbered compendium, which numbering will correspond to the numbering in a PTO-1449 form.

(4) The information supplied via the bulk filing IDS will be updated approximately monthly.

Once past the initial IDS submission, the petition proposes the waiver to apply to updates.

Suspension of action: In view of the use of the instant application as a holding application (to contain a complete set of paper copies of reference citations, which can be consulted by the examiner when examining any of the other bulk filing applications that have a Form 1449 but not the paper copies of the references), the petition does not address how upon allowance the instant holding application will be treated. Whether the application can remain as the holding application without a suspension of action is not addressed. An alternative not discussed in the petition is that an alternate application may be designated as the holding application.

Termination: Petitioner does not seek a specific right of termination. Termination by the Office is to be by written notice to the attorney giving a 2 month period. Termination by Petitioner is to be by returning to compliance with 37 CFR § 1.98. The Office will accept and specifically reserve the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Termination by Applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

Different Technology Centers: It appears from the petition that Petitioner intends to cite every reference cited in any of the 330 applications in every other application. No references will be omitted because they are less relevant or cumulative of those already of record in a particular application. At least 30 of the applications are of such divergent technologies that they are in 5 technology centers outside Technology Center 2800. The applications outside Technology Center 2800 will be examined in areas without convenient access to the paper copies in Technology Center 2800. The 5 other technology centers have requested more access to the paper copies than the relief granting this petition for all 330 applications will afford. It is not clear from the petition why citing every reference in every application when they are in such diverse technologies is necessary or required by § 1.56. Relieving petitioner of the burden of filing paper copies in applications outside Technology Center 2800 will create an additional burden on the examiners of those applications. It is also possible for applicant to comply with 37 CFR 1.98 for U.S. Patents and Patent application publications by submitting references via "e-IDS.[1]" Hence it appears that petitioner has not demonstrated why a waiver for those applications filed outside Technology Center 2800 is necessary.

Decision: 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes. The instant petition urges that not only would applicant be spared the necessity of submitting duplicative paper copies of U.S. patents in over 300 applications, but also the Office would benefit from not having to handle and store the duplicative sets of copies. While there may be some negative effects from the Office's point of view in terms of making the copies available to different examiners handling the various applications, on balance, there is seen to be sufficient benefit to justify waiver in this instance for the applications filed in Technology Center 2800. With respect to those applications being examined outside

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[1]The instructions for submitting an e-IDS can be downloaded at: http://www.uspto.gov/ebc/efs/downloads/documents/EFSePAVE_April23.pdf.

Technology Center 2800, on balance, the burden on petitioner is substantially less to provide an additional paper copy for each application with significantly less benefit to the Office waiving the requirement. Further with respect to other 30 applications the need to submit these references has not been established nor has petitioner addressed alternative methods of compliance.

Accordingly, the petition under 37 CFR 1.183 is granted to the extent indicated and under the terms and conditions as are set forth below.

The § 1.98(a)(2) requirement for (the submission of) a copy of each IDS citation in a bulk filing application will be waived in the bulk filing applications examined in Technology Center 2800 provided that the following 9 conditions are complied with:

1) Three paper copies of each IDS citation are or have been submitted to the Office;

2) Each (bulk filing) application for which waiver of § 1.98(a)(2) is desired refers to the instant holding application, such as by a claim of priority under 35 U.S.C. 120, or as containing related technology;

3) The information is or has also been cited in the holding application;

Note: Applicant is not required to cite in each bulk filing application every item of information that is cited in the instant holding application. Items should be cited in each bulk filing application on the basis of relevancy and materiality to the particular claims in the bulk filing application and what each piece of information teaches.

A waiver is not granted (for the requirement to supply a paper copy of an IDS citation in another bulk filing application) where the citation is not, or has not been, made in the instant holding application.

4) A copy of this Decision is filed in each bulk filing application for which waiver is requested;

5) Explanatory information related to a particular citation, such as the concise explanation of a foreign language reference under § 1.98(a)(2), once submitted in the holding application must be supplied in each bulk filing application where the citation is made.

6) The Office accepts and specifically reserves the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. Termination by applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

7) The grant of the § 1.183 petition re § 1.98(a)(2) does

not indicate that the Office would favorably treat a petition to suspend action under § 1.103(a) should the instant holding application be allowed. Issuance of the instant application as a patent is not seen to terminate its usefulness either: (1) as a holding application for references by examiners working on other related applications, or (2) as a vehicle for the storage of references to be cited even after the patent issues (35 U.S.C. 301, 37 CFR 1.501, and MPEP 2202). Should the instant application become abandoned, the issue of continued introduction of paper copies of new citations could be taken up at that time. The Office, however, may consider suspending or taking other appropriate action in the instant holding application in the event the holding application is allowed, if it is in the best interest of the Office to do so.

8) There will be no waiver of any aspects of 37 CFR 1.98 in any application after allowance or final rejection of that application.

9) The copies will be submitted as a compendium with the reference numbering in the Form 1449 corresponding to the presentation of the references in the compendium.

Part IV. Summary

The petition under 37 CFR 1.182 requesting special treatment by creation of special digests and accepting compact disc submissions is dismissed because there is no showing that the relief granted below under 37 CFR 1.183 is not sufficient for compliance with 37 CFR 1.56.

The petition under 37 CFR 1.183 agreeing to supply three copies of each IDS citation in a holding application and requesting waiver of the paper copy requirement for submission in every related application under § 1.98(a)(2) is granted for those applications examined in Technology Center 2800, however, the following is not agreed to:

- the waiver of supplying a paper copy of each reference in applications examined outside Technology Center 2800.
- the creation of Official search classifications and the mandatory search thereof.
- The establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

Part V. Further Correspondence

Any correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

Docket Number	Application #	Art Unit
	10125540	1631
	9984471	1641
	9624877	1725
	9911539	1725
	9911493	1743
	9832354	1753
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	9921910	1765
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Docket Number	Application #	Art Unit
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Docket Number	Application #	Art Unit
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Docket Number	Application #	Art Unit
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Docket Number	Application #	Art Unit
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211582US-8737-8737-99	09910044	2826
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211803US-8737-8737-99	09911473	2826
211690US-8737-8737-99	09911484	2826
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213011 US-8737-8737-99	09930243	2828
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215295US-8737-8737-99	09983326	2829

Docket Number	Application #	Art Unit
205915US-8737-9737-99	09624803	2834
211916US-8737-8737-99	09911487	2839
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	10151950	2851
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205972US-8737-873799	09624698	2872
205939US-8737 837-99	09669602	2873
205950U"737-8737-99	09607236	2874
205951 US-8737-8737-99	09607744	2874
205947US-8737-8737-99	09608807	2874
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217678US-8737-8737-99	09908885	2874
210824US-8737-8737-99	09909906	2874
211854US-8737-8737-99 -	09911457	2874
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211807US-8737-8737-89	09911469	2874
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21209905-8737-8737-99	09918802	2874
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209695US-8737-8737-99	09882067	2878
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210794US-8737-8737-99	09899996	2881
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21242505-8737-8737-99	09921895	2881
212426US-8737.-8737-99	09921896	2881
212590US-8737-8737-99	09927393	2881
209342US-87378737-99	09870833	2882
	9905115	3662
	9911420	3663
	09607722	3736

By FAX: (703) 872-9005

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries should be directed to Michael L. Lewis at (703)306-5585.

Robert J. Spar
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: TC Assignment Appendix

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OFFICE OF PETITIONS

In re Application of
Reisher, et al.
Application No. 10/267,702
Filed: October 9, 2002
Attorney Docket No. 4110-233U1
For: TOY VEHICLE SLOT TRACK

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on November 3, 2004 (certificate of mailing date November 1, 2004), to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed November 12, 2003, which set an extendable (3) month period for reply. No 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 February 13, 2004. A Notice of Abandonment was mailed on July 27, 2004.

Applicants have submitted a proper reply in the form of an amendment, an acceptable statement of the unintentional nature of the delay in responding to the November 12, 2003 non-final Office action, and the petition fee.[1]

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center 3600 for consideration of the amendment and IDS filed with the instant petition.

---

[1]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.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of	:
Joseph A. Iannotti et al.	:
Application No. 10/267,703	: DECISION REFUSING STATUS
Filed: October 9, 2002	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 1668.1004	:

This is in response to the petition under 37 CFR 1.47(a), filed April 14, 2003 and supplemented on October 3, 2003 and March 2, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on October 9, 2002 naming Joseph A. Iannotti and Richard Joseph Gawrelski as joint inventors, but without a without a signed declaration.

Accordingly, on November 13, 2002, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, a petition was filed under 37 CFR 1.47(b), with a three month extension of time request, because petitioners had not been successful in securing an executed oath or declaration from either inventor. Subsequent to the filing of the April 14, 2003 petition, petitioners filed an oath or declaration executed by joint inventor Richard Joseph Gawrelski and thus seeking status under 37 CFR 1.47(a) because joint inventor Iannotti could not be located. The evidence submitted indicates that a FEDEX package was sent to Mr. Iannotti at his last known address but that the package was returned by FEDEX with a note that the recipient was not available to receive the shipment when delivery was attempted.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

The present petition lacks items (1).

Petitioners must present a showing that diligent efforts have been made to locate the non-signing inventor.[1] Petitioners claim that because FEDEX was unable to deliver the package sent, that Mr. Iannotti could not be found. Petitioners have not established that Mr. Iannotti no longer lived at the address to which the package was mailed. Petitioners must however provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the additional efforts to locate Mr. Iannotti such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate him, send or give a copy of the application papers to him, and request that he sign and return the declaration. If repeated attempts to contact Iannotti by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that he cannot be found despite diligent efforts.

If Mr. Iannotti refuses in writing to sign the declaration, petitioners should provide a copy of that written refusal with any renewed petition. If a verbal refusal to sign is made to a person, details should be given in an affidavit or declaration of facts by a person having first hand knowledge of the facts of refusal.

Finally, if it is found that joint inventor Iannotti is residing at a different address than that listed in the initial petition, petitioners should provide a new statement of the last known address in a renewed petition.

With respect to item (3), a fee in the amount of $130.00 for the petition under 37 CFR 1.47 was not included and thus, per the authorization found in the petition, deposit account no. 19-3935 has been charged.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC

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[1] MPEP 409.03(d).

P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of
Joseph A. Iannotti et al.
Application No. 10/267,703
Filed: October 9, 2002
Attorney Docket No. 1668.1004

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the request for reconsideration filed under 37 CFR 1.47(a) and (b), on August 31, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on October 9, 2002 naming Joseph A. Iannotti and Richard Joseph Gawrelski as joint inventors, but without a without a signed declaration. Accordingly, on November 13, 2002, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, a petition was filed under 37 CFR 1.47(b), with a three month extension of time request, because petitioners had not been successful in securing an executed oath or declaration from either inventor. Subsequent to the filing of the April 14, 2003 petition, petitioners filed an oath or declaration executed by joint inventor Richard Joseph Gawrelski and thus seeking status under 37 CFR 1.47(a) because joint inventor Iannotti could not be located. The evidence submitted indicates that a FEDEX package was sent to Mr. Iannotti at his last known address but that the package was returned by FEDEX with a note that the recipient was not available to receive the shipment when delivery was attempted.

On April 14, 2003 a petition was filed under 37 CFR 1.47(b) and supplemented on

October 3, 2003 and March 2, 2005. However, on August 3, 2005 a decision which treated the petition under 37 CFR 1.47(a), dismissed the petition because the petition lacked item (1) under 37 CFR 1.47(a)[1].

The request for reconsideration still lacks item (1) in that sufficient proof of additional efforts to locate Mr. Iannotti has not been provided. As was indicated in the decision dismissing the previously filed petition, petitioners were advised to provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the additional efforts to locate Mr. Iannotti such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate him, send or give a copy of the application papers to him, and request that he sign and return the declaration. The decision further advised that if repeated attempts to contact Mr. Iannotti by telephone, mail, and e-mail, were unsuccessful, petitioners would have established that he could not be found despite diligent efforts.

The requirement was that petitioners present a showing that diligent efforts had been made to locate the non-signing inventor.[2]

Petitioners argue that the papers were sent via FEDEX to the last known address but that Mr. Iannotti had moved and have provided proof of same. Petitioners further argue that Mr. Iannotti's co-workers had also been queried to identify another address for him but that those efforts were also unsuccessful. The agency would disagree that those efforts constitute diligence and caution again that the suggested methods listed above be utilized to try to determine an address for Mr. Iannotti. The desired objective is to ensure that the non-signing inventor at least has an opportunity to view the application papers for an invention that the petitioners are claiming he has contributed to. It is petitioner's responsibility to at least use diligent efforts to afford him that opportunity.

Again, if Mr. Iannotti refuses in writing to sign the declaration, petitioners should provide a copy of that written refusal with any renewed petition. If a verbal refusal to sign is made to a person, details should be given in an affidavit or declaration of facts by a person having first hand knowledge of the facts of refusal.

Finally, if it is found that joint inventor Iannotti is residing at a different address than that

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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.

[2]MPEP 409.03(d).

listed in the initial petition, petitioners should provide a new statement of the last known address in a renewed petition.

With respect to the filing of the petition in the alternative under 37 CFR 1.47(b), as was indicated in the decision and per the telephone conversation between the petitioner's representative and the undersigned, it was pointed out that irrespective of joint inventor Joseph Gawrelski's demand for payment, he in fact provided an executed oath or declaration and an executed oath or declaration is of record. Thus, the petition is treated under 37 CFR 1.47(a) and not 37 CFR 1.47(b). If Mr. Gawrelski had not signed the oath or declaration and perhaps sent it back blank along with his request for payment, or just sent in his demand for payment and withheld his signature on the oath or declaration, and in the absence of a signature by Mr. Iannotti the other joint inventor, then the petition would have properly been treated under 37 CFR 1.47(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Joseph A. Iannotti et al.
Application No. 10/267,703
Filed: October 9, 2002
Attorney Docket No. 1668.1004

: DECISION NOTING JOINDER OF
: INVENTOR AND PETITION UNDER
: **37 CFR 1.47(a) DISMISSED** AS
: INVOLVING MOOT ISSUES

A petition under 37 CFR 1.47(a) was filed August 31, 2005 and was dismissed in a decision mailed September 12, 2005.

Papers filed on November 14, 2005, in reply to the "Decision Refusing Status Under 37 CFR 1.47(a)" mailed September 12, 2002, included a declaration signed by the previously non-signing inventor, Joseph A. Iannotti, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is unnecessary.

The renewed petition filed November 14, 2005 is **DISMISSED** as involving moot issues.

This application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This matter will be referred to the Publishing Division.

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

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United States Patent and Trademark Office
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TIM HEADLEY
GARDERE WYNNE SEWELL LLP
1000 LOUISIANA, SUITE 3400
HOUSTON TX 77002

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OFFICE OF PETITIONS

In re Application of :
ELLEDGE et al. :
Application No. 10/267,717 :
Filed: October 9, 2002 :
Attorney Docket No. 41-1021 :

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 15, 2005, which for the reasons stated below, has been treated as a petition under 37 CFR 1.181 (no fee), for withdrawal of the holding of abandonment.

The petition is **GRANTED**. The holding of abandonment is vacated, and this application restored to pending status.

While the Notice of Abandonment of June 21, 2005 and this petition were triggered by the apparent failure to comply with requirements for amendments to claims under 37 CFR 1.121, an inspection of the file reveals that the present application is a reissue application. Amendments to reissue applications are not required to follow the requirements under 37 CFR 1.121. Rather, the amendment should follow the requirements under 37 CFR 1.173. The Amendment and Response to Office Action Mailed January 29, 2004 filed June 1, 2004 does comply with 37 CFR 1.173 and was timely filed on June 1, 2004 (May 29 being a Saturday), with a one-month extension of time. As such, the period for reply can reasonably be considered to have been tolled. The USPTO regrets the delay in treating the petition. Since this petition is being treated as a petition to withdraw the holding of abandonment, a refund of $750 is being credited to Deposit Account No. 07-0153.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Technology Center Art Unit 1634 for further processing.

Brian Hearn
Petitions Examiner
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	:	
Yoshinaga, et al.	:	
Application No. 10/267,770	:	LETTER REGARDING
Filed: October 10, 2002	:	PATENT TERM ADJUSTMENT
Attny. Docket No. 05905.0165	:	
Title: IMAGE DISPLAY METHOD	:	

This is in response to the NOTICE OF ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT, filed August 17, 2009. Applicants disclose that the patent term adjustment (PTA) indicated on the Determination of Patent Term Adjustment may extend the term of this patent by too many days.

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is five hundred sixty-six (566) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On June 22, 2009, the Office mailed a Notice of Allowance with the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 594 days. Applicants disclose that this may be incorrect. A Request for Continued Examination (RCE) and amendment were filed on February 13, 2009. However, the amendment was deemed to be non-compliant. A corrected amendment was filed on March 13, 2009. Since the March 13, 2009 amendment constituted the complete response to the November 13, 2008 final Office action, Applicants disclose a 28 day reduction should be entered.

Applicants are correct. A review of the application history reveals that a period of reduction of 28 days should be entered. 37 CFR 1.704(b) provides, in pertinent part, that:

> An applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

As the amendment filed with the RCE on February 13, 2009 was not in compliance with § 1.121, the period for reply to the final rejection mailed November 13, 2008, continued to run. The proper reply, a RCE <u>with compliant amendment</u>, was not received in the Office until March 13, 2009. Pursuant to § 1.704(b), any patent term adjustment in this application is subject to a reduction of 28 days for applicant delay for the period beginning on February 14, 2009, the day after the date that is three months after the mailing date of the final Office action, and ending on March 13, 2009, the date the reply in compliance with §1.113(c) was filed. A period of reduction of 28 days is being entered for this applicant delay.

In view thereof, the correct patent term adjustment at the time of mailing of the Notice of Allowance on June 22, 2009 is FIVE HUNDRED SIXTY-SIX (566) days.

As this letter was submitted to advise the Office of an error in applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Office of Data Management for issuance of 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 and is not consumed by the filing of a RCE.

Telephone inquiries specific to this decision should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Tuesday
Date: 12/22/2009

PALM INTRANET

Time: 13:56:10

PTA Calculations for Application: 10/267770			
Application Filing Date:	10/10/2002	PTO Delay (PTO):	837
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	243
Post-Issue Petitions:	0	Total PTA (days):	566
PTO Delay Adjustment:	-28		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
91	12/22/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		28	
84	06/22/2009	MAIL NOTICE OF ALLOWANCE			
83	06/20/2009	ISSUE REVISION COMPLETED			
82	06/09/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
81	06/09/2009	DOCUMENT VERIFICATION			
80	06/09/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
79	06/08/2009	NOTICE OF ALLOWABILITY			
75	11/14/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
74	04/02/2009	DATE FORWARDED TO EXAMINER			
73	03/13/2009	RESPONSE AFTER NON-FINAL ACTION			
72	02/24/2009	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT			
71	02/23/2009	NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT.			
70	02/23/2009	DATE FORWARDED TO EXAMINER			
69	02/13/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
68	02/23/2009	DATE FORWARDED TO EXAMINER			
67	02/13/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
66	02/23/2009	DISPOSAL FOR A RCE / CPA / R129			
65	02/13/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
64	11/14/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
63	11/14/2008	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
62	11/13/2008	MAIL FINAL REJECTION (PTOL - 326)			
61	11/10/2008	FINAL REJECTION			
60	10/09/2008	CASE DOCKETED TO EXAMINER IN GAU			
59	10/01/2008	CASE DOCKETED TO EXAMINER IN GAU			
58	09/29/2008	DATE FORWARDED TO EXAMINER			
57	09/17/2008	AMENDMENT AFTER FINAL REJECTION			
56	07/25/2008	CASE DOCKETED TO EXAMINER IN GAU			
55	06/23/2008	MAIL FINAL REJECTION (PTOL - 326)			
54	06/20/2008	FINAL REJECTION			
53	02/26/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
52	02/26/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
51	03/13/2008	DATE FORWARDED TO EXAMINER			
50	03/11/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
49	02/26/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	02/11/2008	MAIL RESTRICTION REQUIREMENT			
47	01/31/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
46	11/29/2007	DATE FORWARDED TO EXAMINER			
45	10/28/2007	RESPONSE AFTER NON-FINAL ACTION		31	41
44	10/28/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
43	10/19/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
42	10/17/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
41	06/27/2007	MAIL NON-FINAL REJECTION			
40	06/25/2007	NON-FINAL REJECTION			
39	05/01/2007	DATE FORWARDED TO EXAMINER			
38	04/20/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
37	05/01/2007	DATE FORWARDED TO EXAMINER			
36	04/20/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		87	26
35	05/01/2007	DISPOSAL FOR A RCE / CPA / R129			
34	04/20/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	04/20/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			

32	03/07/2007	MAIL ADVISORY ACTION (PTOL - 303)			
31	03/05/2007	ADVISORY ACTION (PTOL-303)			
30	03/13/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29.7	03/13/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		125	19
29	03/13/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	02/01/2007	DATE FORWARDED TO EXAMINER			
27	01/22/2007	AMENDMENT AFTER FINAL REJECTION			
26	10/23/2006	MAIL FINAL REJECTION (PTOL - 326)	229		19
25	10/16/2006	FINAL REJECTION			
24	08/13/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	12/16/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	06/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
21.7	12/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	12/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	11/17/2005	DATE FORWARDED TO EXAMINER			
19	11/08/2005	RESPONSE AFTER NON-FINAL ACTION			
18	10/06/2005	CASE DOCKETED TO EXAMINER IN GAU			
17	08/19/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
16	08/09/2005	MAIL NON-FINAL REJECTION	608		-1
15	08/08/2005	NON-FINAL REJECTION			
14	04/08/2005	CORRESPONDENCE ADDRESS CHANGE			
13.7	08/13/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	08/13/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	02/05/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	02/11/2003	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
10	04/14/2003	CASE DOCKETED TO EXAMINER IN GAU			
9	03/10/2003	APPLICATION DISPATCHED FROM OIPE			
8	03/07/2003	APPLICATION IS NOW COMPLETE			

7	02/11/2003	ADDITIONAL APPLICATION FILING FEES			
6	02/11/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	12/12/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	10/21/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/10/2002	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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Sughrue Mion PLLC
2100 Pennsylvania Avenue, NW
Suite 800
Washington DC 20037

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OFFICE OF PETITIONS

In re	:	
Oshima et al.	:	
Application NO. 10/267,779	:	RECONSIDERATION OF
Filed: October 10, 2002	:	PATENT TERM ADJUSTMENT
Docket No. Q72355	:	

This decision is in response to applicants' "REQUEST FOR RECONSIDERATION OF FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(D)" timely[1] filed February August 09, 2004 requesting that the PTA determination at the time of the issuance of the patent be adjusted from a determination of Seventy (70) days to a determinatio of ninety-nine (99)days.

Applicants request for PTA reconsideration is **GRANTED.** The office will adjust the PTA determination at the time of the ISSUANCE OF THE PATENT to a determination of ninety-nine (99) days. The Office will also *sua sponte* issue a certificate of correction.

Applicants assert that the determination of 70 days is incorrect because the appellate did not file drawings after the mail date of the notice of allowance and accordingly, the twenty-nine day reduction under 37 CFR 1.704(c)(10) is not accurate.

Applicants' arguments are persuasive. The record does reflects that applicants did not file any drawings during the prosecution of the application. Accordingly, the PALM entry reflecting that drawings were submitted in

After the mailing of this decision, the application will be

[1]Issued on July 20, 2004.

forwarded to the Office of Patent Publications for a prompt issuance of a certificate of correction.

The Office has assessed the $200.00 fee for the submission of this letter regarding PTA. No additional fees are required in making this determination.

Any questions concerning this application should be directed to Kery Fries at 571-272-7757.

Kery A. Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Adjusted Pair Calculation
Draft Certificate of Correction

Day : Friday
Date: 3/17/2006

PALM INTRANET

Time: 08:57:08

PTA Calculations for Application: 10/267779			
Application Filing Date:	10/10/2002	PTO Delay (PTO):	99
Issue Date of Patent:	07/20/2004	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	29
Post-Issue Petitions:	0	Total PTA (days):	99
PTO Delay Adjustment:	29		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
30	03/17/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	29		
25	07/20/2004	PATENT ISSUE DATE USED IN PTA CALCULATION			
24	06/24/2004	RECEIPT INTO PUBS			
23	06/22/2004	DISPATCH TO FDC			
22	06/22/2004	APPLICATION IS CONSIDERED READY FOR ISSUE			
21	06/22/2004	WORKFLOW - DRAWINGS FINISHED		29	21
20	06/04/2004	ISSUE FEE PAYMENT VERIFIED			
19	06/04/2004	ISSUE FEE PAYMENT RECEIVED			
18	04/13/2004	RECEIPT INTO PUBS			
17	04/08/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
16	03/18/2004	MAIL NOTICE OF ALLOWANCE	99		-1
15	03/16/2004	ISSUE REVISION COMPLETED			
14	03/16/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
13	03/16/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	03/16/2004	NOTICE OF ALLOWABILITY			
11	12/01/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	12/01/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	12/01/2003	REFERENCE CAPTURE ON IDS			
8	07/22/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	11/14/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	11/14/2002	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			

5	11/21/2002	CASE DOCKETED TO EXAMINER IN GAU			
4	11/08/2002	APPLICATION DISPATCHED FROM OIPE			
3	11/07/2002	APPLICATION IS NOW COMPLETE			
2	10/17/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/10/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,765,065 B2

DATED : July 20, 2004

INVENTOR(S) : Oshima et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (70) days

Delete the phrase "by 70 days" and insert – by 99 days--

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OFFICE OF PETITIONS

In re Application of :
Susumu Senshu :
Application No. 10/267,806 : ON PETITION
Filed: October 9, 2002 :
Attorney Docket No. 275831US6 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 27, 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 November 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2653 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

In re Application of
Susumu Senshu
Application No. 10/267,806
Filed: October 9, 2006
Attorney Docket No. 275831US6

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed October 22, 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 August 17, 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 2627 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\Oct11\267806.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Chao Kan et al. :
Application No. 10/267,813 :
Filed: October 9, 2002 :
Attorney Docket No. 139019USNP :

This is a decision on the petition under 37 CFR 1.137(b), filed October 3, 2007, 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 June 19, 2007, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on September 20, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee; (2) the petition fee of $1,540; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

The application file is being referred to the Office of Patent Publication.

David Bucci
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6936536	2005-08-30	10267822	2002-10-09	108298937US

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	/Paul Parker/	Date (YYYY-MM-DD)	2009-12-10
Name	Paul T. Parker	Registration Number	38264

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6936536
Issue Date: August 30,2005
Application No. 10267822
Filed: October 9,2002
Attorney Docket No. 108298937US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 10,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 10,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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OFFICE OF PETITIONS
ON PETITION

In re Application of :
Tokuroh Ozawa et al :
Application No. 10/267,834 :
Filed: October 10, 2002 :
Attorney Docket No. 100629.02 :

This is a decision on the petition, filed June 14, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 23, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2674 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01-13-09

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/267834 Patent No.: 7221339

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch
703-308-9390 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE **Art Unit** 2629

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01-13-09

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/267834 Patent No.: 7221339

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch
703-308-9390 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE **Art Unit** 2629

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ROCKVILLE MD 20850

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OFFICE OF PETITIONS

In re Patent No. 7,122,639	:	DECISION ON REQUEST
Ni et al.	:	FOR RECONSIDERATION OF
Issue Date: October 17, 2006	:	PATENT TERM ADJUSTMENT
Application No. 10/267,900	:	and
Filed: October 10, 2002	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. PF250D2	:	CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed December 8, 2006. Patentees request that the patent term adjustment indicated in the patent be corrected from three hundred ninety-four (394) days to five hundred fourteen (514) 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 five hundred fourteen (514) days.

On October 17, 2006, the above-identified application matured into U.S. Patent No. 7,122,639. The instant request for reconsideration filed December 8, 2006 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 394 days. Patentee disputes the reduction of 120 days due to "Workflow-

Drawings finished" as no drawings were filed after the mailing of the notice of allowance.

A review of the PALM calculations for this application reveals that a period of reduction of 120 days was entered for applicants' submission of drawings after the mailing of the notice of allowance. See 37 C.F.R. § 1.704(c)(10). However, a review of the application record supports a conclusion that no drawings (or any other paper, aside from the instant petition and payment of the issue fee) were filed in this application after the mailing of the notice of allowance.

In view thereof, the patent term adjustment indicated in the patent should have been five hundred fourteen (514) 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 **FIVE HUNDRED FOURTEEN (514)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,122,639 B2

DATED : October 17, 2006

INVENTOR(S) : Ni et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (394) days

Delete the phrase "by 394" and insert – by 514 days--

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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MAY 0 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Fenelon et al.	:	
Application No. 10/267911	:	DECISION ON PETITION
Filed: 10/09/2002	:	
Attorney Docket No. 3288-000008/CPC	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed on April 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on June 27, 2007, for failure to timely file a response to the non-final Office action mailed on March 26, 2007, which set a three (3) month shortened statutory period for reply. No extension of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on October 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to the outstanding Office action, (2) the petition fee of $770.00, and (3) a proper statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be

submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3231.

This application is being referred to Technology Center AU 3764 for appropriate action by the Examiner in the normal course of business on the reply received on April 7, 2008

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

DOUGLAS T. JOHNSON
MILLER & MARTIN PLLC
SUITE 1000 VOLUNTEER BUILDING
832 GEORGIA AVENUE
CHATTANOOGA TN 37402-2289

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James Hao
Wagner Murabito and Hao LLP
Two N Market Street 3rd Floor
San Jose CA 95113

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of :
Gavardoni, et al. : DECISION ON PETITION
Application No. 10/267,927 :
Filed: October 8, 2002 :
Atty. Dkt. No.: NPT-65.0380.2 :

The above-identified application has been forwarded to the Office of Petitions for consideration of the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed February 20, 2007.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment 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 January 6, 2007 for failure to timely submit a proper reply to the Notice of Allowability (Notice) mailed October 5, 2006. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed August 17, 2006.

The Notice required submission of corrected formal drawings. A review of the record does not reveal that corrected formal drawings were timely submitted. Petitioners have submitted no argument that drawings were in fact timely submitted. No grounds having been advanced for withdrawal of the holding of abandonment, the petition is subject to dismissal.

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

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James Hao
Wagner Murabito and Hao LLP
Two N Market Street 3rd Floor
San Jose CA 95113

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JUN 21 2007

OFFICE OF PETITIONS

In re Application of	:
Gavardoni, et al.	: DECISION ON PETITION
Application No. 10/267,927	:
Filed: October 8, 2002	:
Atty. Dkt. No.: NPT-65.0380.2	:

This decision is in response to the petition renewed under 37 CFR 1.137(b) filed May 25, 2007.

The petition is hereby **GRANTED**.

This application became abandoned January 6, 2007 for failure to timely submit a proper reply to the Notice of Allowability (Notice) mailed October 5, 2006. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed August 17, 2006.

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 Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Office of Patent Publication for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LACASSE & ASSOCIATES, LLC
1725 DUKE STREET
SUITE 650
ALEXANDRIA VA 22314

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MAR 0 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Desai et al.	:	DECISION ON PETITION
Application No. 10/267,929	:	TO WITHDRAW
Filed: October 10, 2002	:	FROM RECORD
Attorney Docket No. 3022105	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 4, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Randy W. Lacasse, Jaclyn A. Schade and Thien Tran has been revoked by the assigned of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(b) is moot.

All future communications from the Office will to be directed to the below-listed address.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272- 3206.

David Bucci
Petitions Examiner
Office of Petitions

cc: PAUL MILLHOUSER, ESQ.
HOUGHTON MIFFLIN COMPANY
222 BERKELEY STREET
BOSTON, MA 02116

UNITED STATES PATENT AND TRADEMARK OFFICE

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P. O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 4

Barry W. Chapin, Esq.
Chapin and Huang, L.L.C.
Westborough Office Park
1700 West Park Drive
Westborough, MA 01581

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MAY 19 2003

OFFICE OF PETITIONS

In re Application of	:	
Bryan A. Whitmore, et al.	:	
Application No. 10/267,936	:	ON PETITION
Filed: October 9, 2002	:	
Attorney Docket No. CIS02-05(5616)	:	

This is in response to the petition under 37 CFR 1.47(a), filed February 7, 2003.

The petition is granted.

Upon review of the statement of facts presented in the instant petition, it is determined from the nonsigning inventor's actions that he has refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the declaration and petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to Marianne Morgan at (703) 306-3475.

Brian Keen for

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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Bryan A. Whitmore
107 Mechanic Street
Fitchburg, MA 01420

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MAY 1 9 2003

OFFICE OF PETITIONS

In re Application of
Bryan A. Whitmore; and James W. O'Toole
Application No. 10/267,936
Filed: October 9, 2002
For: METHODS AND APPARATUS FOR DETERMINING THE PERFORMANCE OF A SERVER

Dear Mr. Bryan Whitmore:

You are named as a joint inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Marianne Morgan at (703) 306-3475. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

Brian Hearn, for

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Barry W. Chapin, Esq.
Chapin and Huang, L.L.C.
Westborough Office Park
1700 West Park Drive
Westborough, MA 01581

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081202

DATE : April 11, 2008

TO SPE OF : ART UNIT 1661

SUBJECT : Request for Certificate of Correction on Patent No.: 15722 10/267,931

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:

Plant Patent 15722 contains the original drawing as filed.

ANNE MARIE GRUNBERG
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date Mailed : February 06, 2009

Patent No. : PP 15,722
Patent Issued : April 19, 2005
Docket No. : n/a

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s)1.322 .

The alleged error(s) Plant Patent 15722 contains the original drawing as filed. the patent is printed in accordance with the record .In view of the foregoing, your request, in this matter(s), is hereby denied.

Further consideration/reconsideration will be given upon receipt of a Request for Reconsideration under, under the provision of U.SC.254 or 255 (C.F.R. 1.322 or 1.323), accompanied by the appropriate response or fee of $100, which should be directed to Decisions & Certificates of Correction Branch.

Ennis Young
Legal Instrument Examiner
(703) 308-9390 ext.117

For Mary Diggs, Supervisor
Decisions & Certificates of Correction Branch
(703) 308-9390 ext. 125 or (703) 303-8309 (Receptionist)

UNITED STATES PATENT AND TRADEMARK OFFICE

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Patrick H. McCollum
PD Holdings (USA) Inc.
Suite 1700
363 N. Sam Houston Parkway East
Houston TX 77060

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MAY 23 2005

OFFICE OF PETITIONS

In re Application of Medhat Mickael Application No.10/267,944 Filed: October 8, 2002 Attorney Docket Number: AES 02-001 Title of Invention: GAMMA RAY SPECTROSCOPY LOGGING-WHILE DRILLING SYSTEM	: : : : : : :	ON PETITION

This is a decision on the petition filed February 2, 2005, under 37 CFR 1.137(a) to revive the above-identified application. This petition being treated as a petition under 37 CFR 1.137(b) pursuant to petitioner's request.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed August 24, 2004. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on November 25, 2004. A Notice of Abandonment was mailed on January 10, 2005

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PERMAN & GREEN
425 POST ROAD
FAIRFIELD, CT 06824

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NOV 2 0 2006
OFFICE OF PETITIONS

In re Application of

Lainema, et al.

Application No. 10/267,967

Filed: October 8, 2002

Attorney Docket No. 200-007477-US(C01)

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed August 24, 2006.

The petition is **granted**.

This application was held abandoned August 10, 2005 after no reply was received to the final Office action mailed May 9, 2005. The notice set forth a statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on August 10, 2005. The instant petition was filed on August 24,2 006. Petitioner maintains that the final Office action was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 2600, GAU 2621 for further processing including remailing of the non-final Office action and resetting of the time period for reply.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 5

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

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APR 14 2004
OFFICE OF PETITIONS

In re Application of :
Hur, Ellisseff, Doursat, Chapelle, :
Guyon, and Weston :
Application No. 10/267,977 : ON PETITION
Filed: October 9, 2002 :
Attorney Docket No. 02331-0381

This is a decision on the petitions under 37 CFR 1.137(a) and 37 CFR 1.47(b), filed March 29, 2004, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

The petition under 37 CFR 1.47(b) is also **DISMISSED.**

Any request for reconsideration or petition under 37 CFR 1.137(b) must be submitted within TWO (2) MONTHS from the mail date of this decision. Extension of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C § 704.

The above-identified application became abandoned for failure to reply to the Notice to File Missing Parts of Nonprovisional Application mailed December 3, 2002, which set a shortened statutory period for reply of two (2) months from its mailing date. No response was received within the allowable period, and the application became abandoned on February 4, 2003. A Notice of Abandonment was mailed on January 26, 2004.

TREATMENT UNDER 37 CFR 1.137(a)

A grantable petition under 37 CFR 1.137(a)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due

[1]As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

The instant petition lacks items (1) and (3).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

---

[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading 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 asserts that the uncooperativeness of the inventors was the cause of the delay.

With regard to item (1) above, a petition under 37 CFR 1.137 cannot be granted until a proper response to the Notice is received. In this case, a proper response would consists of an executed oath or declaration under 37 CFR 1.63, or a grantable petition under 37 CFR 1.47. A proper response must accompany any renewed petition or a petition filed under 37 CFR 1.137(b).

With regard to item (3) above, the aforementioned argument of petitioner in support of petitioner's belief that the above-cited application was unavoidably abandoned is not persuasive. The reason petitioner's argument must necessarily fail are addressed below.

The uncooperativeness of the inventors alone cannot be the cause of unavoidable delay. The Notice to File Missing Parts of Nonprovisional Application provided a two-month extendable period for response, beginning from its mailing date. Under 37 CFR 1.136, petitioner could have obtained an additional five months to respond to the Notice. While the uncooperativeness of the inventors is appreciated, it is conceivable that the total seven month period for reply is sufficient time to determine that the inventors did not intend to cooperate and for petitioner to file a petition under 37 CFR 1.47(b) in response to the Notice to File Missing Parts of Nonprovisional Application. A successful petition under 37 CFR 1.137(a) will explain why petitioner did not avail himself of the extensions of time available under 37 CFR 1.136(a) and why the failure to do so was unavoidable.

TREATMENT UNDER 37 CFR 1.47(b)

A grantable petition under 37 CFR 1.47(b) requires:

---

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

(5) proof of proprietary interest, and

(6) a showing (statement) that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The instant petition lacks items (1), (2), (5), and (6) above.

As to item (1), section 409.03(d) of the *Manual of Patent Examining Procedure*(MPEP) provides, in pertinent part, that "[w]here inability to find or reach a nonsigning inventor "after diligent effort" is the reason for the 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." Although petitioner states that inventors are unavailable, petitioner does not fully describe the efforts undertaken to locate the inventors and what circumstances occurred that allowed petitioner to conclude that the inventors are unavailable. Petitioner is cautioned that in satisfying item (1) above, petitioner must provide statements of facts relative to petitioner's efforts to have the inventors execute the declaration so that the Commissioner can determine whether the inventors are unavailable, not simply conclude that diligent efforts were made and the inventors are unavoidable.

As to item (2) above, the declaration provided is not proper because it is not executed by the 37 CFR 1.47(b) applicant. Section 409.03(b) provides, in pertinent part, that:

> [t]he 37 CFR 1.47(b) applicant must make the oath required by the 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign

> the necessary oath or declaration. A corporation may authorize any person, including an attorney or gent registered to practice before the U.S. Patent and Trademark Office, to sign the application, oath or declaration on its behalf. Where an oath or declaration is signed by registered attorney or agent on behalf of a corporation, either proof of the attorneys' or agents' authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation.

The declaration provided with instant petition was not executed by anyone. Any renewed petition filed must be accompanied by a properly executed declaration. Petitioner is advised to consult section 409.03(b) for further guidance on satisfying the requirements of item (2) above.

As to item (5) above, petitioner has not properly established that the 37 CFR 1.47(b) applicant has sufficient proprietary interest to prosecute the application without the inventors. Section 409.04(e) of the MPEP provides that:

> [w]hen an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that:
>
> (A) the invention has been assigned to the applicant, or
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

Petitioner concedes that the inventors have not executed an assignment for the invention claimed. Since no assignment is available, petitioner must provide a legal memorandum in accordance with Section 409.03(e) that states, in pertinent part, that:

> [a] proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of the same. The legal memorandum should be prepared and signed by an attorney of law familiar with the law of the jurisdiction involved. A copy (in the English language) or a statute (if other than the United States

statute) or a court decision (if other than a reported decision of a federal court or decision reported in the United States Patent Quarterly) relied on to demonstrate a proprietary interest should be made of record.

An assignment, agreement to assign, or a legal memorandum in compliance with section 409.03(e) above, must be provided with any renewed petition filed.

As to item (6) above petitioner did not provide a showing that grant of status under 37 CFR 1.47(b) is necessary in order to preserve the interests of the 37 CFR 1.47(b) applicant and prevent irreparable damage. Section 409.03(g) of the MPEP provides, that, [i]rreparable damage may be established by a showing (a statement) that a filing date is necessary to preserve the rights of the party or prevent irreparable damage." Any renewed petition filed must include such a statement.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 10

PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO,CA 92101

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OCT 2 9 2004

OFFICE OF PETITIONS

In re Application of
Hur, Ellisseff, Doursat, Chapelle, Guyon, and Weston
Application No.: 10/267,977
Filed: October 9, 2002
Attorney Docket No: 02331-0381

ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed October 21, 2004, and the renewed petition under 37 CFR 1.47(b).

The petition under 37 CFR 1.137(b) is **granted**.

The petition under 37 CFR 1.47(b) is rendered moot by the joinder of the inventors.

TREATMENT UNDER 37 CFR 1.137(b)

On December 3, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed by the Office requiring payment of the filing of an oath or declaration and payment of a surcharge for the late filing of the same. The notice allowed an extendable period for response of two months from its mailing date. No response was received within the allowed period and the application became abandoned on February 4, 2003. A Notice of Abandonment was mailed on January 26, 2004.

The executed declaration filed October 21, 2004, is noted and made of record. The surcharge of $65.00 will be charged to deposit account 50-2075.

TREATMENT UNDER 37 CFR 1.47(b)

In view of the joinder of the inventors, further consideration under 37 CFR 1.47(a) is not necessary. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The Manual of Patent Examining Procedure ("MPEP"), § 409.03(j) provides that "[i]n the event the previously non-signing inventor decides to join the application by filing an executed oath or declaration complying with 37 CFR 1.63, the oath or declaration will be placed in the application file."

Accordingly, the declaration executed by all joint inventors is noted and made of record.

The preliminary amendment filed October 21, 2004, is noted and made of record.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosures:
"Notice of Acceptance of Power of Attorney"
"Notice Regarding Change of Power of Attorney"

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO, CA 92101

Mail Date: 04/20/2010

Applicant	: Asa Ben Hur	: DECISION ON REQUEST FOR
Patent Number	: 7617163	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/267,977	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/09/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **917** 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

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

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JAN 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Hung Van Trinh	:	DECISION ON PETITION
Application No. 10/267,983	:	UNDER 37 CFR 1.137(b)
Filed: October 7, 2002	:	
Attorney Docket No. DEVOE-39	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 12, 2005, to revive the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office apologizes for any inconvenience to petitioner.

This application became abandoned for failure to reply timely to the Restriction Requirement mailed on March 8, 2004, which set a one-month extendable period to respond. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on April 9, 2004. A Notice of Abandonment was mailed on December 23, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). The petition is **granted**.

This matter is being referred to Technology Center Art Unit 2831.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

E. THOMAS WHEELOCK
MORRISON & FOERSTER LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

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AUG 3 1 2005

OFFICE OF PETITIONS

In re Application of :
James Meidinger :
Application No. 10/267,998 : ON PETITION
Filed: October 8, 2002 :
Attorney Docket No. 529892000100 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 13, 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 August 16, 2004, which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. An Advisory action was mailed March 15, 2005 indicating that the reply filed on February 16, 2005 failed to place the application in condition for allowance. Accordingly, the application became abandoned on February 17, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment and a Request for Continued Examination (RCE); (2) the petition fee of $750; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 3600, Art Unit 3617 for processing the Request for Continued Examination (RCE) under 37 CFR 1.114 filed with the instant petition.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No.

MG-IP Law, PLLC
PO BOX 1364
FAIRFAX VA 22038-1364

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MAR 3 0 2009

OFFICE OF PETITIONS

Tankhiwale	:	
Application No. 10/268,002	:	
Filed: October 8, 2002	:	
Attorney Docket No. 3655/0307PUS1	:	DECISION ON APPLICATION
Title: DYNAMIC FEATURE AND	:	FOR
FUNCTION AVAILABILITY FOR SOFTWARE	:	PATENT TERM ADJUSTMENT
PBX	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. 1.705(b)," filed November 26, 2008. Applicants request that the patent term adjustment indicated on the initial determination of patent term adjustment be corrected from five hundred and thirty-seven (537) days to eight hundred and eighty (880) days.

The request for reconsideration of the patent term adjustment is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is seven hundred and forty-six **(746)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 12, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 537 days. The instant application for

patent term adjustment was timely filed[1] on or before payment of the issue fee.
Pursuant to 37 C.F.R. § 1.704(b), "an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed." A non-final action was mailed on February 22, 2007, and a response was not received until December 17, 2007. Thus the Office determined that this constituted two hundred and nine (209) days of Applicant delay.

With this petition, Applicants have correctly asserted that the period for response was restarted via the mailing of a non-final action on September 21, 2007. Applicants have asserted "the image file wrapper contains no documents to show why this occurred."[2] Applicants assertion is erroneous - they will note that the electronic record shows that a power of attorney was filed on April 5, 2007, which is less than three months after the mailing of the non-final action of February 22, 2007. Hence, the period for reply was restarted via the mailing of a non-final action on September 21, 2007, and the response of December 17, 2007 was timely filed.

It follows that since the response of December 17, 2007 was filed within the three-month period set forth in 37 C.F.R. § 1.704(b), the assignment of two hundred and nine (209) days of Applicant delay was improper.

Applicants have further requested that one hundred and thirty-four (134) days of PTO delay be assigned, as the September 21, 2007 Office action was mailed "134 days later than four months after Applicant's January 10, 2007 communication."[3] See 37 CFR 1.703(a)(2). This assertion is based on Applicant's erroneous

[1] PALM records indicate that the issue fee was paid on December 10, 2008.
[2] Petition, page 2.
[3] Id.

assertion that "[t]he evidence of record suggests that the February 22, 2007, Office Action was never mailed."[4] The electronic file has been reviewed, and it is clear that the Office action of February 22, 2007 was mailed. Moreover, on the fifth and twelfth pages of Applicant's submission, which consist of a print-out of the Office's electronic Patent Application Information Retrieval (PAIR) portal, the entry "02-20-2007 Mail Non-Final Rejection" appears. Still further, on the ninth page of this submission, which also consists of a print-out of the Office's PAIR portal, appears the entry "02-22-2007 CTNF Non-Final Rejection."

As such, the Office action of February 22, 2007 was mailed within four months of the date of receipt of the after-final amendment of January 10, 2007. Thus, entry of a period of adjustment pursuant to 37 C.F.R. § 1.702(a) is not warranted.

The other periods of delay are not at issue.

The proper period of adjustment for Office delay was properly calculated to be 808 days. The proper period of reduction for Applicant delay is 62 days.

In view thereof, the patent should have issued with a revised patent term adjustment of 746 (808 - 62) days.

It is noted that Applicants have included payment in the amount of $400. The appropriate fee, as set forth in 37 C.F.R. § 1.18(e), is $200. The $200 overpayment will be refunded to Applicant's credit card in due course.

The Office of Data Management will be notified of this decision so that the present application can be processed into a patent. The application is being forwarded to the Office of Data Management 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).

---

[4] Id.

Telephone inquiries specific to this matter should be directed to Paul Shanoski, Senior Attorney, at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Encl. Copy of the Revised Patent Term Adjustment

Day : Saturday
Date: 3/28/2009

PALM INTRANET

Time: 19:49:39

PTA Calculations for Application: 10/268002			
Application Filing Date:	10/08/2002	PTO Delay (PTO):	808
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	271
Post-Issue Petitions:	0	Total PTA (days):	746
PTO Delay Adjustment:	209		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
57	03/28/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	209		
50	11/12/2008	MAIL NOTICE OF ALLOWANCE			
49	11/10/2008	ISSUE REVISION COMPLETED			
48	11/10/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
47	11/10/2008	DOCUMENT VERIFICATION			
46	11/07/2008	NOTICE OF ALLOWABILITY			
45	07/31/2008	APPEAL BRIEF REVIEW COMPLETE			
44	07/31/2008	DATE FORWARDED TO EXAMINER			
43	07/28/2008	APPEAL BRIEF FILED			
42	07/09/2008	MAIL ADVISORY ACTION (PTOL - 303)			
41	07/07/2008	ADVISORY ACTION (PTOL-303)			
40	06/17/2008	NOTICE OF APPEAL FILED			
39	06/30/2008	DATE FORWARDED TO EXAMINER			
38	06/17/2008	AMENDMENT AFTER FINAL REJECTION			
37	03/18/2008	MAIL FINAL REJECTION (PTOL - 326)			
36	03/17/2008	FINAL REJECTION			
35	01/07/2008	DATE FORWARDED TO EXAMINER			
34	12/17/2007	RESPONSE AFTER NON-FINAL ACTION		209	29
33	09/21/2007	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
32	09/17/2007	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
31	05/11/2007	CORRESPONDENCE ADDRESS CHANGE			
30	05/11/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
29	02/22/2007	MAIL NON-FINAL REJECTION			

28	02/20/2007	NON-FINAL REJECTION			
27	02/02/2007	DATE FORWARDED TO EXAMINER			
26	01/10/2007	AMENDMENT AFTER FINAL REJECTION			
25	10/16/2006	MAIL FINAL REJECTION (PTOL - 326)			
24	10/13/2006	FINAL REJECTION			
23	07/24/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	08/07/2006	DATE FORWARDED TO EXAMINER			
21	07/24/2006	RESPONSE AFTER NON-FINAL ACTION		62	17
20.7	07/24/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	07/24/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	07/24/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
18	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
17	02/23/2006	MAIL NON-FINAL REJECTION	808		-1
16	02/17/2006	NON-FINAL REJECTION			
15	01/30/2006	CASE DOCKETED TO EXAMINER IN GAU			
14	05/27/2005	CASE DOCKETED TO EXAMINER IN GAU			
13	05/17/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	04/14/2005	CASE DOCKETED TO EXAMINER IN GAU			
11	04/14/2005	CASE DOCKETED TO EXAMINER IN GAU			
10	04/06/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	05/03/2004	MISCELLANEOUS INCOMING LETTER			
8	02/09/2005	CASE DOCKETED TO EXAMINER IN GAU			
7	01/16/2003	CASE DOCKETED TO EXAMINER IN GAU			
6	12/09/2002	CASE DOCKETED TO EXAMINER IN GAU			
5	11/06/2002	APPLICATION DISPATCHED FROM OIPE			
4	11/05/2002	APPLICATION IS NOW COMPLETE			
2	10/17/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/08/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Alexandria, VA 22313-1450
WWW.USPTO.GOV

Mailed: 1-13-06

In re U.S. Patent No. 6,841,601	:	**DECISION ON PETITION**
Issued: January 11, 2005	:	*37 CFR 1.324*
Application Number: 10/268,039	:	
Filed: October 09, 2002	:	
For: CROSSLINKED POLYMER ELECTROLYTE:		
MEMBERANES FOR HEAT AND MOISTURE	:	
EXCHANGE DEVICES		

This is a decision on the petition, filed on June 17, 2005, to correct inventorship in a patent under 37 CFR 1.324.

The petition is **GRANTED**.

The patented file is being forwarded to Certificate of Corrections Branch for Issuance of a certificate naming only the actual inventor or inventors.

David W. Wu
Supervisory Patent Examiner
Art Unit 1713
Technology Center 1700
Chemical and Materials Engineering

HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

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P.O. BOX 832570
RICHARDSON TX 75083

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DEC 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Clinton S. Hartmann	:	
Application No. 10/268,047	:	ON PETITION
Filed: October 9, 2002	:	
Attorney Docket No. RFSC-0012P1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 10, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing the Appeal Brief under 37 CFR 41.37(a)(1), accompanied by the fee set forth in 37 CFR 41.20(b)(2), runs from the date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2612.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 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
10/268,053	10/09/2002	2821	671	11006-0003-999	12	41	4

CONFIRMATION NO. 9802

CORRECTED FILING RECEIPT

OC000000013077162

20583
JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

Date Mailed: 06/25/2004

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 D. Evans, Los Angeles, CA;
Patrick A. Pribyl, South Pasadena, CA;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/328,249 10/09/2001

Foreign Applications

If Required, Foreign Filing License Granted: 11/12/2002

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

PLASMA PRODUCTION DEVICE AND METHOD AND RF DRIVER CIRCUIT

Preliminary Class

343

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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JONES DAY
222 EAST 41ST STREET
NEW YORK, NY 10017

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:
John D. Evans et al	:
Application No. 10/268,053	:
Filed: October 9, 2002	:
Attorney Docket No. 11006-0003-999	:

This is a decision on the petition, filed March 18, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 18, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2821 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

In re Application of	:
John D. Evans et al	:
Application No. 10/268,053	: DECISION GRANTING PETITION
Filed: October 9, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 11006-0003-999	:

This is a decision on the petition, filed July 12, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 7, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2821 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).*

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ALEXANDRIA, VA 22313-1450
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Paper No. None

EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON MA 02205

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OFFICE OF PETITIONS

In re Application of
Timothy G. Adams et al.
Application No. 10/268,063
Filed: October 9, 2002
Attorney Docket No.: 50572
Title: ACETAL/ALICYCLIC POLYMERS AND PHOTORESIST COMPOSITIONS

DECISION ON PETITION UNDER 37 C.F.R. §1.181

This is a decision on the petition filed on August 1, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed May 26, 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 August 27, 2005. A notice of abandonment was mailed on June 1, 2006.

RELEVANT PORTION OF THE C.F.R.

37 C.F.R. §1.8(b) sets forth, *in toto*:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice,

the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

ANALYSIS

With the present petition, Petitioner has asserted that a response was filed on November 28, 2005[1]. Petitioner has submitted a copy of this submission, and it is noted that it contains a certificate of mailing dated November 28, 2005. A review of the electronic record shows that the fee associated with the filing of a petition for a three-month extension of time was received on this date.

Certificate of mailing practice provides a mechanism by which Applicants may evince that a paper was timely submitted to the Office, in the event that the correspondence is not received.

Petitioner's submission has been reviewed: with the present petition, Petitioner has informed the Office of the previous mailing, provided an additional copy of the previously submitted correspondence, and has included a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely transmission.

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn. It is clear that a response was timely submitted. 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 submission was timely submitted.

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 amendment which was received with the present petition can be processed.

---

1 It is noted that November 26, 2005 fell on a Saturday.

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

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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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MATERIALS LLC
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MARLBOROUGH, MA 01752

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OFFICE OF PETITIONS

In re Application of

Adams, et al.

Application No. 10/268,063

Filed: October 9, 2002

Attorney Docket No. 50572

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed January 10, 2008.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on March 29, 2007, after it was believed that no response was received to the non-final Office action mailed December 28, 2006. The notice allowed a period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on September 17, 2007, indicating that a reply to the non-final Office action was not received.

Petitioner states that an amendment responsive to the non-final Office action was filed on June 28, 2007, with a request for an extension of time within the third month. An Office date-stamped postcard whereby the USPTO acknowledged receiving an amendment and request for extension of time within the third month on June 28, 2007 accompanied the petition. Based on the aforementioned, it appears that the application was improperly held abandoned as a response was received prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly.

The address cited on the petition differs from the address of record. Although a courtesy copy of this decision is being mailed to the address cited on the petition, all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

The application file is being forwarded Technology Center 1700, GAU 1752, for further processing including review of the amendment filed June 28, 2007, a copy of which was filed with the petition on January 10, 2008.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:

Peter F. Corless
Edwards Angell Palmer & Dodge, LLP
PO Box 55874
Boston, MA 02205

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TC 3600

Foley and Lardner
Suite 500
3000 K Street NW
Washington DC 20007

In re application of
Salim Mohammad
Application No. 10/268,093 :
Filed: October 10, 2002 :
For: METHOD AND SYSTEM FOR PROVIDING ACCESS TO PUBLIC FINANCING MARKETS TO COMPAINES WITH LIMITED OR NEGATIVE NET WORTH :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on April 1, 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 reason for the withdrawal under condition A) and B) above.

As to condition A), the attorneys associated with Customer No. 22428, named in the Power of Attorney in the declaration do not correspond with those named in the withdrawal request thereby creating confusion as to who is withdrawing. To alleviate this problem, it is suggested that the request be resubmitted and that such request specifically state that the signing attorney is signing on behalf of all attorneys of record in this application.

As to condition B), a proper reason for withdrawal as enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/vdb: 6/17/04

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THELEN REID & PRIEST LLP
P. O. BOX 640640
SAN JOSE CA 95164-0640

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AUG 2 4 2004

OFFICE OF PETITIONS

In re Application of	:	
Diorio et al.	:	DECISION GRANTING
Application No. 10/268,116	:	PETITION
Filed: 8 October, 2002	:	
Attorney Dkt No. IMPJ-0013	:	

This is a decision on the petition, filed on 2 August, 2004, which is treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of 8 October, 2002, rather than the presently accorded filing date of 7 October, 2002.

Petitioners allege that the application was deposited in Express Mail service on 8 October, 2002. In support, petitioners have provided a copy of Express Mail Label No. EL839722258US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). Although the Express Mail label bears a "date-in" of "10-7-02" the label also contains an Official USPS postmark dated 8 October, 2002.

In view of the above, the correct date of deposit in Express Mail is 8 October, 2002.

In view of the above, the petition is granted. The petition fee of $130.00 is unnecessary and will be credited to counsel's account No. 50-1698, as authorized in the present petition.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to **8 October, 2002.**

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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OFFICE OF PETITIONS

In re Application of	:	
Diorio et al.	:	
Application No. 10/268,116	:	DECISION
Filed: 8 October, 2002	:	UNDER 37 CFR 1.28(c)
Attorney's Docket No. IMPJ-0013	:	

This is in response to the deficiency fee payment filed pursuant to 37 CFR 1.28(c) on 3 August, 2004.

37 CFR 1.28(c) states, "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full."

The 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**.

Small entity status will no longer apply.

The file is being forwarded to Publishing Division to await applicants' response to the Notice of Allowance and Issue Fee Due and Notice of Allowability, both mailed on 9 July, 2004.

Telephone inquiries 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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OFFICE OF PETITIONS

ON PETITION

In re Application of
Christopher J. Diorio, et al.
Application No. 10/268,116
Filed: October 8, 2002
Attorney Docket No.: IMPJ-0013A

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 28, 2005, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated July 25, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2817 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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United States Patent and Trademark Office
P.O. Box 1450
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Date : November 15, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Christopher J. Diorio, et al.
Application No. : 10/268,116
Filed : October 8, 2002

The above-identified application has been assigned Patent No. 6,967,534 and an issue date of November 22, 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 November 22, 2005:

> "All reference to Patent No. 6,967,534 to CHRISTOPHER J. DIORIO, ET AL. of WASHINGTON for USE OF ANALOG-VALUED FLOATING-GATE TRANSISTORS FOR PARALLEL AND SERIAL SIGNAL PROCESSING appearing in the Official Gazette of November 22, 2005, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, Crystal Park 3-44I (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9I0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE OH 44632

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In re Application of
Markus J. Osypka et al.
Application No. 10/268,120
Filed: October 10, 2002
Attorney Docket No. 114.0003-00000

LETTER REGARDING
PATENT TERM ADJUSTMENT

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)", filed October 13, 2006, notifying the Office of an error in Applicants' favor in the initial determination of patent term adjustment under 35 U.S.C. § 154(b). Applicants state that the patent term adjustment to date is three hundred eighty five (385) days, not four hundred eighty one (481) days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED** to the extent indicated below. The determination of PTA at the time of the mailing of the Notice of Allowance is TWO HUNDRED NINETY TWO (292) days.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance was two hundred ninety-two (292) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 25, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 481 days, 568 days for Office Delay minus 87 days for applicant delay.

Applicants state that with regard to Applicants' delay, their response to the non-Final Office Action mailed June 30, 2005 was not filed until December 23, 2005 which was 84 days after September 30, 2005, the three month period set for reply. Applicants further argue that the December 23, 2005 filing was not fully responsive and as additional fees were filed April 7, 2006, 105 more days from the filing of the response on December 23, 2005 should have been deducted for Applicant delay. Petitioner's argument is persuasive. A period of 189 (84+105) additional days should have been deducted for a total of 276 days for Applicant Delay.

The application was entitled to a patent term adjustment of 568 days for Office delay in mailing a first notification under 35 U.S.C. 132 on June 30, 2005, fourteen months and

568 days after the filing date of the application, October 10, 2002. Applicants assert entitlement to a patent term adjustment of 661 days on the basis that the USPTO failed to mail the first Office action within 14 months of the filing date of the application (568 days) and on the basis that the USPTO failed to mail the Notice of Allowance under 35 U.S.C. § 151 within 4 months from the date the response was filed to the Office Action on December 23, 2005 and they are therefore entitled to an additional 93 days for the period from April 23, 2006 to July 25, 2006, the date the Notice of Allowance was mailed.

Applicant's argument for 93 days additional patent term adjustment based on Office delay has been considered but is not persuasive. In response to, and within four months of, the amendment filed on December 23, 2005, the office mailed a Notice of Non-compliant Amendment on March 28, 2006. In addition with respect to the response filed April 7, 2006, the Notice of Allowance was mailed within four months of that filing on July 25, 2006. In view thereof, there was no office delay.

The correct determination of PTA at the time of the mailing of the Notice of Allowance is TWO HUNDRED NINETY-TWO (292) days.

As this letter was submitted as an advisement to the Office of an error in Applicant's favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks Applicants for their good faith and candor in bringing this to the attention of the Office.

The application file is being forwarded to the Office of Patent Publication for timely issuance of the patent.

Telephone inquiries specific to this letter should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Nancy Johnson for

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

PALM INTRANET

Day : Tuesday
Date: 1/9/2007
Time: 11:03:04

PTA Calculations for Application: 10/268120			
Application Filing Date:	10/10/2002	PTO Delay (PTO):	568
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	87
Post-Issue Petitions:	0	Total PTA (days):	292
PTO Delay Adjustment:	-189		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
38	01/09/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		84	
37	01/09/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		105	
29	07/25/2006	MAIL NOTICE OF ALLOWANCE			
28	07/25/2006	MAIL EXAMINER'S AMENDMENT			
27	07/07/2006	ISSUE REVISION COMPLETED			
26	07/07/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
25	06/27/2006	EXAMINER'S AMENDMENT COMMUNICATION			
24	06/27/2006	NOTICE OF ALLOWABILITY			
23	03/28/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	06/20/2006	REQUEST FOR REFUND			
21	05/02/2006	CASE DOCKETED TO EXAMINER IN GAU			
20	04/19/2006	DATE FORWARDED TO EXAMINER			
19	04/07/2006	FEE PAYMENT RECORDED (FEES FILED SEPARATELY E.G. NOT WITH ORIGINAL PAPERS, ETC).			
18	03/28/2006	REFERENCE CAPTURE ON IDS			
17	03/28/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	03/28/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
15	03/22/2006	DATE FORWARDED TO EXAMINER			
14.3	12/23/2005	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
14	12/23/2005	RESPONSE AFTER NON-FINAL ACTION			
13	06/30/2005	MAIL NON-FINAL REJECTION	568		-1
12	06/27/2005	NON-FINAL REJECTION			

11	09/03/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	03/20/2004	CASE DOCKETED TO EXAMINER IN GAU			
9	07/02/2003	CORRESPONDENCE ADDRESS CHANGE			
8	05/22/2003	APPLICATION DISPATCHED FROM OIPE			
7	05/20/2003	APPLICATION IS NOW COMPLETE			
5	05/02/2003	ADDITIONAL APPLICATION FILING FEES		87	3
4	05/02/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
3	11/04/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	10/18/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/10/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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150 BROADWAY, SUITE 702
NEW YORK NY 10038

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OFFICE OF PETITIONS

In re Application of	:	
Michael P. Boutilette et al.	:	
Application No. 10/268,135	:	DECISION ON PETITION
Filed: October 8, 2002	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 24, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 16, 2009, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed December 16, 2008. Accordingly, the date of abandonment of this application is March 17, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to the Office of Data Management for processing into a patent.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

UNITED STATES SURGICAL
A DIVISION OF TYCO HEALTHCARE GROUP
195 MCDERMOTT ROAD
NORTH HAVEN CT 06473

COPY MAILED

JUN 21 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
David C. Racenet et al :
Application No. 10/268,140 :
Filed: October 9, 2002 :
Attorney Docket No. 1894 CON :

This is a decision on the petition, filed June 15, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 4, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3763 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
CARTER, DELUCA, FARRELL & SCHMIDT, LLP
445 BROAD HOLLOW ROAD, SUITE 225
MELVILLE, NEW YORK 11747

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : June 21, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :David C. Racenet et al
Application No. :10/268,140
Filed :October 9, 2002

The above-identified application has been assigned Patent No. 7,066,911 and an issue date of June 27, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of June 27, 2006:

"All reference to Patent No. 7,066,911 to David C. Racenet et al of Connecticut for TROCAR SEAL SYSTEM appearing in the Official Gazette of June 27, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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Commissioner for Patents
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Alexandria, VA 22313-1450
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Paper No. 102104

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

OCT 28 2004

In re Application of:	:	
Chao-Yuan Lo	:	NOTICE OF WITHDRAWAL
Serial No.: 10/268,141	:	FROM ISSUE
Filed: October 8, 2002	:	UNDER 37 CFR § 1.313
Attorney Docket No.: **TSAI17.001AUS**	:	

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR § 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed September 1, 2004, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons thereof will be communicated to you by the examiner.

Upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that any previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund, or a credit to a Deposit Account.

Telephone inquires should be directed to Lynn Feild at (571) 272-2092.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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MAILED
FROM DIRECTORS OFFICE

DEC 0 2 2004

TECHNOLOGY CENTER 3600

Standley Law Group LLP
495 Metro Place South
Suite 210
Dublin, OH 43017

In re application of	:	**DECISION ON PETITION**
Dianne C. Daniel	:	**TO MAKE SPECIAL**
Application No. 10/268,142	:	**(INFRINGEMENT)**
Filed: October 10, 2002	:	
For: WRAP FOR BUNDLING OBJECTS		

This is a decision on the petition under 37 C.F.R § 1.102(d) filed June 17, 2004 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(h); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed June 17, 2004 meets all of the requirements above and, therefore, the petition is **GRANTED**.

Regarding element 2(C) above, Information Disclosure Statements have been filed on September 8, 2003, March 31, 2004, April 16, 2004, July 12, 2004, and August 25, 2004.

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/rwg: 11/01/04

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

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APR 0 7 2003

OFFICE OF PETITIONS

LERNER AND GREENBERG, P.A.
PATENTS ATTORNEYS AND ATTORNEYS AT LAW
Post Office Box 2480
Hollywood, FL 33022-2480

In re Application of Lahnor, et al. Application No. 10/268,148 Filed: October 10, 2002 Atty. Dkt. No.: MUH-12386 For: DEFECT-MINIMIZING, TOPOLOGY-INDEPENDENT PLANARIZATION OF PROCESS SURFACES IN SEMICONDUCTOR DEVICES	DECISION DISMISSING PETITION UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed March 13, 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 October 10, 2002 without an executed oath or declaration and naming Peter Lahnor and Alexander Simpson as joint inventors.

Accordingly, on November 6, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring a new oath or declaration in compliance with 37 CFR 1.63.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition fails to satisfy requirements (1), (2), and (4) set forth above.

As to item (1), the petition lacks sufficient evidence that the non-signing inventor cannot be reached.

The declaration of Dieter Kottman states the application papers were to the non-signing inventor in New York and that an executed declaration was not returned by the inventor. The petition is also accompanied by a returned envelope stamped "attempted not

known."

Where unavailability of an inventor is based on an inability to reach or locate a named inventor, petitioner is required to establish that diligent effort to locate the inventor and provide the inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration) was made. The declaration of Dieter Kottman fails to set forth details of any subsequent efforts to locate the inventor.

Any renewed petition must be supported by evidence which sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted. At the very least, a search of the internet and telephone directories should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

As to item (4), petitioner s required to verify the last known address of the non-signing inventor. While the petition indicates the last known address of the inventor is Wappinger Falls, New York, the evidence submitted by petitioner does not appear to support this contention. More significantly, the copy of the email message from the non-signing inventor seems to indicate the more current address of the non-signing inventor is Warrenville, Illinois.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6890903
Issue Date: May 10,2005
Application No. 10268180
Filed: October 9,2002
Attorney Docket No. 01-40

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 9,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 9,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6890903	2005-05-10	10268180	2002-10-09	7099.200-US

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	/Len S. Smith, Reg. No. 43,139/	Date (YYYY-MM-DD)	2009-07-09
Name	LEN S. SMITH	Registration Number	43139

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Motorola, Inc.
Law Department
1303 East Algonquin Road
3rd Floor
Schaumburg, IL 60196

COPY MAILED

JUN 10 2008

In re Application of	:	
David M. Bjordammen, et. al.	:	
Application No. 10/268,185	:	ON PETITION
Filed: October 9, 2002	:	
Attorney Docket No. D02913	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 2007, to revive the above-identified application.

The application became abandoned for failure to timely respond to the non-final Office action mailed on January 4, 2007.

The petition is **dismissed.**

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (3).

Petitions under the unintentional provisions of 37 CFR 1.137 are required to be signed by an attorney or agent registered to practice before the Patent and Trademark Office, the patentee, the assignee, or other party in interest.

The instant petition contains an S-signature of Thomas Bethea, Jr. Since it is not clear whether the signature on the petition is from someone authorized to sign a petition under 37 CFR 1.137, the statement of unintentional delay cannot be accepted at this time.

The requirements for an S-signature under 37 CFR 1.4 (d)(2) are as follows:

> (i) The S-signature must consist only of letters, or Arabic numerals, or both, with appropriate spaces and commas, periods, apostrophes, or hyphens for punctuation, and the person signing the correspondence must insert his or her own S-signature with a first single forward slash mark before, and a second single forward slash mark after, the S-signature (e.g., /Dr. James T. Jones, Jr./); and
>
> (ii) A patent practitioner (§ 1.32(a)(1)), signing pursuant to §§ 1.33(b)(1) or 1.33(b)(2), must supply his/her registration number either as part of the S-signature, or immediately below or adjacent to the S-signature. The number (#) character may be used only as part of the S-signature when appearing before a practitioner's registration number; otherwise the number character may not be used in an S-signature.
>
> (iii) The signer's name must be:
>
> > (A) Presented in printed or typed form preferably immediately below or adjacent the S-signature, and
> >
> > (B) Reasonably specific enough so that the identity of the signer can be readily recognized.

Additionally, the Revocation of Power of Attorney and Appointment of New Power of Attorney filed on November 21, 2007, was accepted by the Office on November 30, 2007. Unfortunately, it is not apparent whether the person signing the form is authorized to act on behalf of the assignee or is in a position to have an apparent authority to sign on behalf of the assignee. Thus, the Statement under 37 CFR 3.73(b) needs perfecting to contain the statement that the individual is authorized to sign on behalf of the assignee or be signed by a person having the apparent authority to sign on behalf of the assignee, such as an officer of the assignee (See 37 CFR 3.73(b)(2)). A blank 3.73(b) Statement is enclosed for petitioner's convenience.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 35 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Privacy Act Statement
Blank Statement under 37 CFR 3.73(b)

PTO/SB/96 (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.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), 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 37 CFR 3.11.

[NOTE: A separate copy (*i.e.,* a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____	_____
Signature	Date
_____	_____
Printed or Typed Name	Telephone Number
_____	
Title	

This collection of information is required by 37 CFR 3.73(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 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.

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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JUN 1 5 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Seung-Hyun Moon et al :
Application No. 10/268,192 :
Filed: Ocober 10, 2002 :
Attorney Docket No. 5000-1-269 :

This is a decision on the petition, filed June 15, 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).

P titioner is advised that the issue fee paid on April 26, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new N tice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 2839 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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18TH AND CHERRY STREETS
PHILADELPHIA PA 19103-6996

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FEB 0 6 2008

OFFICE OF PETITIONS

In re Patent No. 7,223,584 :
Issued: May 29, 2007 :
Application No. 10/268,197 : ON PETITION
Filed: October 10, 2002 :
Attorney Docket No. P26,522-D USA :

This is a decision on the petition filed June 18, 2007 under 37 CFR 1.182, requesting the withdrawal of a previously filed Terminal Disclaimer in lieu of, the terminal disclaimer filed March 27, 2006.

The petition is **DISMISSED** to the extent that the Terminal Disclaimer filed March 27, 2006 will be placed in the record but the Terminal Disclaimer filed April 20, 2005 (April 18, 2005 certificate of mail date) will not be removed from the record.

A review of the record indicates that a terminal disclaimer was filed under 35 U.S.C. § 253 and 37 CFR 1.321(c) on April 18, 2005 (certificate of mail date). The terminal disclaimer was relied upon by petitioner to overcome a rejection on the grounds of obviousness-type double patenting involving the claims of co-pending application no. 09/816,531. Petitioner argues that due to a typographical error, the Terminal Disclaimer filed April 18, 2005 incorrectly identified the application no. for an application used to overcome a double patenting rejection and that therefore, the April 18, 2005 Terminal Disclaimer should be withdrawn and replaced with one that correctly refers to the application used to overcome the double patenting rejection.

The Terminal Disclaimer filed April 18, 2005 was executed by Raymond A. Miller, Registration No. 42,891 and disclaimed that "...the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of an patent granted on pending reference Application Number 09/816,513, filed on March 23, 2001, as such term..."

Whereas, the proffered terminal disclaimer disclaimed the terminal part of any patent granted on the above-identified application, which would extend beyond the expiration date of the full statutory term of application no. 09/816,513, the "replacement" Terminal Disclaimer is signed by Daniel A. Monaco, Registration No. 30,480 and disclaimed the

terminal part of any patent granted on the above-identified application, which would extend beyond the expiration date of the full statutory term of application no. 09/816,531.

While the Terminal Disclaimer filed April 18, 2005 was accepted and recorded by the examiner, and while it was noted on the face of the patent that "this patent is subject to a terminal disclaimer", no application number is recited (i.e., the term of this patent that extends beyond the expiration date of application no. .....). Neither the terminal disclaimer nor the alleged ambiguity actually exists on the patent. Thus, there is no error in the patent requiring correction. As such, this petition does not necessitate consideration of whether issuance of a certificate of correction is warranted.

Rather, Patentees request that the Terminal Disclaimer filed April 20, 2005(certificate of mailing dated April 18, 2005) be withdrawn and replaced in the record with the Terminal Disclaimer filed March 27, 2006 with the instant petition.

The Terminal Disclaimer filed April 18, 2005 was made of record and despite the typographical error in the terminal disclaimer, the examiner properly considered the terminal disclaimer to disclaim the terminal part of any patent granted on the above-identified application, which would extend beyond the expiration date of the full statutory term of application no. 09/816,531, not 09/816,513, in examination and allowance of this application as can be seen on page 4 of the non-Final Office action mailed July 12, 2005.

Nonetheless, removal of the Terminal Disclaimer filed April 18, 2005 from the application record is inappropriate. At the outset, unfortunately, once a patent issues, the USPTO will not remove the effect of a recorded terminal disclaimer in an issued patent. See Manual of Patent Examining Procedure (MPEP) § 1490(B); Bayer AG v. Carlsbad Technology Inc., 64 USPQ2d 1045, 1048-49 (Fed. Cir. 2002).

What is here controlling is that petitioner seeks to correct an issued patent. The statutory authority for amendment or correction of an issued patent is found in title 35, chapter 25. The instant petition does not involve correction of a mistake by the Patent and Trademark Office (Office) (35 USC § 254) or correction of the named inventor (35 USC § 256). In addition, while the instant petition involves a disclaimer, 35 USC § 253 merely authorizes the filing and recording of disclaimers; it does not authorize the withdrawal of a terminal disclaimer. Bayer, supra.

Unless a "mistake" is provided for in 37 CFR 1.322, 1.323, or 1.324, or affords legal grounds for reissue or for reexamination, such "mistake" will not be corrected subsequent to the issuance of an application as a patent. See 37 CFR 1.325; MPEP 1490. As further noted in MPEP 1490, the mechanisms to correct a patent (i.e.,

certificate of correction (35 USC § 255), reissue (35 USC § 251 (notwithstanding the filing of this reissue application and the instant petition reissue) and reexamination (35 USC § 305)) are not available to withdraw or otherwise nullify the effect of a recorded terminal disclaimer.

Placement of the Terminal Disclaimer filed March 27, 2006 in the record is accepted however, in accordance with the above reasoning, the Terminal Disclaimer will not be recorded and no further action will be undertaken. If petitioner would like the USPTO to consider the new terminal disclaimer, petitioner will have to consider filing a reissue application.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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MAR 19 2009

OFFICE OF PETITIONS

In re Patent No. 7,223,584 :
Issued: May 29, 2007 :
Application No. 10/268,197 : ON PETITION
Filed: October 10, 2002 :
Attorney Docket No. P26,522-D USA :

This is a decision on the request for reconsideration filed March 24, 2008 under 37 CFR 1.182, requesting the withdrawal of a previously filed Terminal Disclaimer in lieu of, the terminal disclaimer filed June 18, 2007.

The petition is DISMISSED to the extent that the Terminal Disclaimer filed June 18, 2007 will be placed in the record but the Terminal Disclaimer filed April 20, 2005 (April 18, 2005 certificate of mail date) will not be removed from the record.

A petition filed June 18, 2007 to withdraw a Terminal Disclaimer filed April 18, 2005 in lieu of a Terminal Disclaimer filed June 18, 2007 was dismissed in a decision mailed February 6, 2008. The decision advised that the petition was DISMISSED to the extent that the Terminal Disclaimer filed June 18, 2007 will be placed in the record but the Terminal Disclaimer filed April 20, 2005 (April 18, 2005 certificate of mail date) will not be removed from the record.

The USPTO will not withdraw a terminal disclaimer after the patent issues. This includes situations where there is an obvious error in the terminal disclaimer. In this instance, petitioner was advised that as no ambiguity existed on the face of the Patent, no correction would be made.

The relief a patentee is entitled to is that upon request, the USPTO will accept the new terminal disclaimer and record it as well. Consistent with Patent Process and Procedure, the latter filed Terminal Disclaimer is of record.

As previously indicated, placement of the Terminal Disclaimer filed June 18, 2007 in the record is accepted. Both the April 18, 2005 and June 18, 2007 terminal disclaimers have been recorded.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Robert P. Loce *et al.*
Serial No.: 10/268,246
Filed: October 9, 2002
For: SYSTEMS FOR SPECTRAL MULTIPLEXING OF A SOURCE IMAGE AND BACKGROUND IMAGE TO PROVIDE A COMPOSITE IMAGE, FOR RENDERING THE COMPOSITE IMAGE, AND FOR SPECTRAL DEMULTIPLEXING OF THE COMPOSITE IMAGES

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 CFR §1.84(a)(2) filed October 9, 2002 requesting acceptance of color drawings.

The petition requests that the color drawings identified in Figure 7 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

Three sets of drawings must be submitted in color for a grantable petition, 1 (one) drawing that identified Figure 10 was submitted in color. Therefore the petition is **DENIED** for failing to submit the requisite three copies of color drawings identified in Figure 7.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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DIRECTOR'S OFFICE
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In re Application of
Robert P. Loce *et al.*
Serial No.: 10/268,246
Filed: October 9, 2002
For: SYSTEMS FOR SPECTRAL MULTIPLEXING OF A SOURCE IMAGE AND BACKGROUND IMAGE TO PROVIDE A COMPOSITE IMAGE, FOR RENDERING THE COMPOSITE IMAGE, AND FOR SPECTRAL DEMULTIPLEXING OF THE COMPOSITE IMAGES

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 CFR §1.84(a)(2) filed April 16, 2008 requesting acceptance of color drawings.

The petition requests that the color drawings identified in Figure 7 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is **GRANTED**.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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Paper No. 7

JAMES V. LAPACEK
S & C ELECTRIC CO.
6601 N. RIDGE BLVD.
CHICAGO IL 60626

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OFFICE OF PETITIONS

In re Application of	:
Stavnes et al.	: DECISION ON PETITION
Application No. 10/268,252	: UNDER 37 CFR 1.78(a)(6)
Filed: 9 October, 2002	:
Atty Docket No. SC-5341	:

This is a decision on the petition styled under 37 CFR 1.78(a)(3), filed on 7 July, 2003, which is treated as a petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/350,520, filed on 22 October, 2001.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) 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)(5) 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) of the prior-filed application, unless previously submitted;[1]

(2) the surcharge set forth in § 1.17(t); and

[1]Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed provisional applications 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).

> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The present pending nonprovisional application was filed on 9 October, 2002, within twelve months of the filing date of the prior provisional application No. 60/350,520, filed on 22 October, 2001, and for which priority is claimed. A reference to the prior provisional application has been included in an amendment to the first sentence of the specification following the title.

The present nonprovisional application was filed after 29 November, 2000, and the claim for priority herein is submitted after the expiration of the period specified in 37 CFR 1.78(a)(5). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought.[2] Accordingly, having found that the present petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 119(e), the petition to accept an unintentionally delayed claim to benefit to prior-filed provisional Application No. 60/224,914 is granted as of the date of filing the petition.

A corrected filing receipt which includes the prior claim to provisional Application No. 60/350,520, filed on 22 October, 2001, accompanies this decision on petition.

The $1,300.00 fee required by 37 CFR 1.78(a)(6) has been received.

The application is being forwarded to Technology Center 2800 for processing the amendment filed on 7 July, 2003, and for consideration by the examiner of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior provisional application, No. 60/350,520, filed on 22 October, 2001.

---

[2] See 35 U.S.C. § 119(e).

Telephone inquiries related to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Encl: Corrected Filing Receipt

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David L. Hauser
Edwards Lifesciences LLC
One Edwards Way, Legal Department
Irvine CA 92614

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MAR 20 2008

In re Application of
Anderson et al.
Application No. 10/268,253
Filed: October 10, 2002
Attorney Docket No. PVI-5844CONDIVCON2DIVCON3

DECISION ON PETITION

This is a decision on the petition filed December 20, 2007 requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimer filed October 6, 2003 be withdrawn. The $400.00 petition fee has been received.

The petition is granted.

A review of the record shows that the terminal disclaimer submitted on December 20, 2007 was accepted on January 15, 2008. Accordingly, the terminal disclaimer filed on October 6, 2003 is withdrawn. It should however be noted, that the terminal disclaimer filed October 6, 2003 is being withdrawn in favor of the terminal disclaimer filed on December 20, 2007. USPTO records for the above-identified application have been changed consistent with this decision.

The address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This application is being forwarded to Art Unit 3738 for correction in the PALM database and file records consistent with this decision.

Telephone inquiries related to this decision should be addressed to the undersigned at (571) – 272-3215

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Christie, Parker & Hale, LLP, P.O. Box 7068, Pasadena, CA 91109-7068

0210
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SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/268,256	11/7/02	ENGELHARD CORPORATION	4916 US

Title:
CO OXIDATION PROMOTERS FOR USE IN FCC PROCESSES

Art Unit	Paper Number

Correspondence Address:
RAYMOND F. KELLER
ENGELHARD CORPORATION
101 WOOD AVENUE
P.O. BOX 770
ISELIN, NJ. 08830-077.

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 529,754

Grant Date: 08-Nov-02

Approved

for Commissioner of Patents and Trademar

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such aplication or applications.

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LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

John R. Posthumus, Esq.
LeBoeuf, Lamb, Greene & MacRae, L.L.P.
633 Seventeenth Street, Suite 2000
Denver, CO 80202

In re Application of:
Brian K. SOUTHERN
Application No. 10/268,272
Filed: October 9, 2002
For: DETERMINISTIC METHOD OF EXPERIMENTAL DESIGN

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed December 22, 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.**

There is no indication that Applicant has been notified of the request for withdrawal. Accordingly, the request is **DENIED.**

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

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OLSEN & WATTS
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OFFICE OF PETITIONS

In re Application of	:	
Wilkinson	:	DECISION
Application No.: 10/268,317	:	
Filing Date: 10 October, 2002	:	
Attorney Docket No. WCW-2836	:	

This is a decision on the petition filed on 17 March, 2006, to revive the instant application under 37 C.F.R. §1.137(b) as having as abandoned due to unintentional delay.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 18 July, 2005, with reply due absent extension of time on or before 18 October, 2005;
- the application went abandoned by operation of law after midnight 18 October, 2005;
- it does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed;

- on 10 March, 2006, Petitioner filed with the instant petition (with fee) a reply in the form of an amendment, and made the statement of unintentional delay–thus, it appears that Petitioner has satisfied the regulatory requirement 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, 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]))

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[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.

Allegations as to
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. Petitioner may review the commentary set forth at MPEP §711.03(c) and the language at 37 C.F.R. §1.137(b) for guidance.

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to the Examiner in Technology Center 3600 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

DUANE MORRIS, LLP
ATTN: WILLIAM H. MURRAY
ONE LIBERTY PLACE
1650 MARKET STREET
PHILADELPHIA, PA 19103-7396

Paper No. 5

In re application of : **DECISION ON PETITION**
Richard Bookstaber : **TO MAKE SPECIAL**
Application No. 10/268,381 : **(ACCELERATED**
Filed: October 10, 2002 : **EXAMINATION)**
For: BLIND PERTURBATION ENCRYPTION METHOD FOR PROTECTING FINANCIAL POSITION INFORMATION WHILE PROVIDING RISK TRANSPARENCY

This is in response to the petition originally filed on July 29, 2003, but resubmitted October 31, 2003, to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII. The delay in deciding this petition is sincerely regretted.

The petition is **DISMISSED**.

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 filed October 31, 2003 fails to adequately meet requirements (D) and (E) above.

As to condition (D), notwithstanding a copy of the post card receipt of documents sent with the resubmitted petition, *no copy* of any of the references listed on the Information Disclosure Statement was received. As to condition (E) the detailed discussion does not include a discussion of all of the references listed on the Information Disclosure Statement. Specifically, it appears applicant inadvertently missed a discussion of the Munoz et al. reference (US 2002/0198819).

For the above stated reasons, 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. 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.

SUMMARY: Petition to Make Special **DISMISSED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/cps: 11/18/03

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DIRECTOR'S OFFICE
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DUANE MORRIS, LLP
ATTN: WILLIAM H. MURRAY
ONE LIBERTY PLACE
1650 MARKET STREET
PHILADELPHIA, PA 19103-7396

In re application of
Richard Bookstaber
Application No. 10/268,381
Filed: October 10, 2002
For: BLIND PERTURBATION ENCRYPTION METHOD FOR PROTECTING FINANCIAL POSITION INFORMATION WHILE PROVIDING RISK TRANSPARENCY

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the renewed petition filed on March 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 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
(703) 308-0866

KJD/mjz: 3/29/04

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 5

Bozicevic, Field & Francis LLP
200 Middlefield Road
Suite 200
Menlo Park, CA 94025

In re Application of:	)	
Lambertus HESSELINK, et al.	)	
Application No. 10/268,411	)	
Filed: October 9, 2002	)	**DECISION ON REQUEST FOR**
For: CONTROL AND OBSERVATION OF	)	**WITHDRAWAL AS ATTORNEY**
PHYSICAL DEVICES, EQUIPMENT	)	
AND PROCESSES BY MULTIPLE	)	
USERS OVER COMPUTER	)	
NETWORKS	)	

This is a decision on the Request To Withdraw from Representation filed March 11, 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.**

There is no indication that Applicant has been notified of the request for withdrawal. Accordingly, the request is **DENIED**.

All future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

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EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of
Alexander David Frenkel et al
Application No. 10/268,412
Filed: October 9, 2002
Attorney Docket No. 018781-010410US

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 July 27, 2005.

The petition is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Mark H. Hopkins, Ph.D. on behalf of all attorneys/agents of record who are associated with customer No. 20350.

All attorneys/agents associated with the Customer Number 20350 have been withdrawn.

Applicants are reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named inventor; or (2) the assignee of the entire interest. All future communications from the Office will continue to be directed to the first named inventor or the assignee of the entire interest at the below-listed address until otherwise properly notified by the applicants.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

This application is being referred to Technology Center AU 1626.

David Bucci
Petitions Examiner
Office of Petitions

cc: RAHUL PATHAK
JONES DAY
2882 SAND HILL ROAD, SUITE 240
MENLO PARK, CA 94025

AMGEN SF
1120 VETERANS BOULEVARD
SAN FRANCISCO, CA 94080

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OFFICE OF PETITIONS

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Patent No. 7,496,295
Issued: February 24, 2009
Application No. 10/268,424
Filed: October 10, 2002
Dkt. No.: 271899US20

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.705(d) AND REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed March 19, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from 994 days to 1303 days. This matter is being properly treated under 37 CFR 1.705(d) as an application for patent term adjustment.

The request for reconsideration of patent term adjustment is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,496,295 on February 24, 2009. The patent issued with a patent term adjustment of 944 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

Patentee requests reconsideration of the patent term adjustment and reference the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert entitlement to a patent term adjustment of 1303 days (1000 days under 37 CFR 1.702(a) + 689 days under 37 CFR 1.702(b) – 330 overlapping days - 56 days of applicant).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the time of submission of the request for continued examination (RCE) on August 30, 2007, the application was pending three years and 689 days. The Office

agrees that prior to the filing of the RCE, certain action was not taken within a specified time frame, and, thus, the entry of a period of adjustment of 1000 days is correct. At issue is whether patentees should accrue an additional 689 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 1000 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the entire 689 day period overlaps with the 1000 day period of examination delay. Patentee's calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the*

United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004).

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, October 10, 2002 to August 30, 2007, the date on which the RCE was filed. Prior to the filing of the RCE, the Office accorded 1000 of patent term adjustment for the Office failing to respond within specified time frames during the pendency of the application. All of the 689 days for Office delay in issuing the patent overlap with the 1000 days of examination delay. The Office did not delay 1000 days and also delay an additional 689 days.

The 689 days attributed to the delay in the issuance of the patent overlaps with the adjustment of 1000 days attributable to the grounds specified in 37 C.F.R. § 1.702(a)(1). Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, no adjustment to the patent term of 944 days (1000 days less 56 days) will be made.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Patent No. 7,496,295
Issued: February 24, 2009
Application No. 10/268,424
Filed: October 10, 2002
Dkt. No.: 271899US20

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition filed on November 30, 2009, which is being treated as a petition under 37 CFR 1.181 requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 1,303 days. The petition is deemed timely, having been filed within two months of the mail date of the decision on petition mailed September 28, 2009. See, 37 CFR 1.181(f).

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on October 11, 2005 and ends on August 29, 2007, the day before the RCE was filed, and not August 30, 2007, the day of filing of the RCE as calculated by patentees. See, 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 688 days not 689 days. As such, the correct patent term adjustment is 1,302 days, not 1,303 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

The Office acknowledges receipt of the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 1,302 days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,496,295 B2

DATED : **February 24, 2009** **DRAFT**

INVENTOR(S) : Baldine, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 944 days

Delete the phrase "by 944 days" and insert -- by 1,302 days --

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TIM HEADLEY
GARDERE WYNNE SEWELL LLP
1000 LOUISIANA, SUITE 3400
HOUSTON TX 77002

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OFFICE OF PETITIONS

In re Application of	:	
Neil De Guzman	:	
Application No. 10/268,444	:	ON PETITION
Filed: October 11, 2002	:	
Attorney Docket No. 128097-1000	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 5, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit a timely reply to the Notice To File Corrected Application Papers mailed December 5, 2002, which set a period for reply of two (2) months. Accordingly, the above-identified application became abandoned on March 6, 2003.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

The application is being forwarded to the Office of Initial Patent Examination.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

JAN 11 2005

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TC 3600

HUSCH & EPPENBERGER, LLC
190 CARONDELET PLAZA
SUITE 600
ST. LOUIS, MO 63105-3441

In re Application of	:	
James R. VanSickle	:	
Serial No. 10/268,446	:	NOTICE OF WITHDRAWAL
Filed: October 10, 2002	:	FROM ISSUE
For: POWER LUMBAR MECHANISM	:	UNDER 37 CFR 1.313(b)

The above-identified application is withdrawn from issue after the payment of the issue fee due to unpatentability of one or more claims.

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Examiner White at (703) 308-2276.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

John J. Love

John J. Love, Director
Technology Center 3600

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Paper No. 7

JAMES V. LAPACEK
S & C ELECTRIC CO.
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CHICAGO IL 60626

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OFFICE OF PETITIONS

In re Application of
Daniel J. Evans et al
Application No. 10/268,457
Filed: October 9, 2002
Attorney Docket No. SC-5350

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed July 7, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/350,518, filed October 22, 2001.

The petition is **Granted**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the surcharge set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and

(3) the reference to the prior-filed provisional application supplied in an application data sheet (ADS)(37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. *See* 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5)(iii). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on October 9, 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/350,518, which was filed on October 22, 2001, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/350,518 is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

The application is being forwarded to Technology Center AU 2832 for processing the amendment submitted July 7, 2003, and for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/350,518, filed October 22, 2001.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

PTO/SB/66 (03-09)
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,968,103	2005-11-22	10/268,461	2002-10-10	12492.0045

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	/R. Whitney Winston/	Date (YYYY-MM-DD)	2010-06-02
Name	R. Whitney Winston	Registration Number	44432

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6968103
Issue Date: November 22,2005
Application No. 10268461
Filed: October 10,2002
Attorney Docket No. 10001-30142

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 2,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 2,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MACPHERSON KWOK CHEN & HEID LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE CA 95110

COPY MAILED

SEP 21 2007

OFFICE OF PETITIONS

In re Application of :
Gary A. Freeman :
Application No. 10/268,463 : DECISION ON PETITION
Filed: October 10, 2002 :
Attorney Docket No. :
09375-027001

This is a decision on the petition under 37 CFR 1.137(b), filed January 16, 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 January 10, 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 April 11, 2006. A Notice of Abandonment was mailed on October 3, 2006.

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 $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of January 10, 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.

This application is being referred to Technology Center AU 2871 for appropriate action in the normal course of business on the reply received January 16, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THE WHITAKER CORPORATION
SUITE 450
4550 NEW LINDEN HILL ROAD
WILMINGTON DE 19808-2952

COPY MAILED

OCT 17 2005

OFFICE OF PETITIONS

In re Application of :
Kristi Dhimiter Pance et al :
Application No. 10/268,480 :
Filed: October 10, 2002 :
Attorney Docket No. 17899 :

ON PETITION

This is a decision on the petition, filed October 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 15, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The instant petition under 37 CFR 1.313(c)(2), the RCE and the IDS, filed on October 14, 2005, are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Brian C. Oakes appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he act. However, if Mr. Oakes desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Oakes, the petitioner herein.

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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).

Until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This matter is being forwarded to Technology Center Art Unit 2817 for processing of the request for continued examination under 37 CFR 1.114 filed October 14, 2005.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
BRIAN OAKES
BURNS, DOANE, SWECKER & MATHIS
P.O. BOX 1404
ALEXANDRIA, VA 22313

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JEFFER, MANGELS, BUTLER & MARMARO, LLP
1900 AVENUE OF THE STARS, 7TH FLOOR
LOS ANGELES, CA 90067

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JUL 02 2008
OFFICE OF PETITIONS

In re Application of	:	
Desheng Wang	:	
Application No. 10/268,486	:	DECISION ON PETITION
Filed: October 10, 2002	:	
Attorney Docket No. 68047-5001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 26, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to respond to the non-final Office action mailed April 1, 2004. A Notice of Abandonment was mailed on December 2, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(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 (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 2 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 2, 2004. 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 Joe Nieh was the counsel of record at the time of abandonment, Mr. Nieh should explain why this application became abandoned while it was under his control and what efforts he made to reply and with whom this matter was discussed outside of his Office. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action is required from the responsible person, Mr. Nieh and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons 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 2 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 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).

A courtesy copy of this decision is being mailed to the address given on the petition; however, all future correspondence will be directed to the address of record.

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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Desheng Wang
425A N. Moore Avenue
Monterey Park, CA 91754

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GARY F. WANG
215 N. MARENGO AVENUE
SUITE 352
PASADENA, CA 91101-1503

MAILED

NOV 12 2009

OFFICE OF PETITIONS

In re Application of Desheng Wang Application No. 10/268,486 Filed: October 10, 2002 Attorney Docket No. 68047-5001	: : : : :	DECISION ON PETITION

This is a decision on the renewed petition under the 37 CFR 1.137(b), filed August 27, 2008, to revive the above-identified application. The delay in responding is sincerely regretted.

In response to the decision mailed July 2, 2008, petitioner submits the present renewed petition along with an explanation of the unintentional delay.

It is noted that petitioner was not the representative of the applicant at the time of abandonment. However, 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.

Since the above-identified application has been abandoned for an extended period of time, the Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

The requirements of 37 CFR 1.137(b) has been satisfied, in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) a proper statement of unintentional delay, the petition is **GRANTED**.

The Power of Attorney and Correspondence Address Indication Form filed on august 27, 2008 has been accepted and made of record.

This application file is being referred to Technology Center Art Unit 1724 for review of the amendment filed on February 26, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/268,486	10/10/2002	Desheng Wang	68047-5001

CONFIRMATION NO. 3036

POA ACCEPTANCE LETTER

77482
Gary F. Wang
215 N. Marengo Avenue
Suite 352
Pasadena, CA 91101-1503

OC000000038726746

Date Mailed: 11/12/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/27/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/amsmith/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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. 4

MAILED

JAN 13 2004

Technology Center 2100

FISH & RICHARDSON P.C.
225 Franklin Street
Boston, MA 02110-2804

In re Application of
Robert O. ABERG, et al
Application No. 10/268,541
Filed: October 10, 2002
For: TRUTH TABLES

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed May 22, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communication 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 U.S. Patent and Trademark Office (the Office) of any change in correspondence address to ensure receipt of all communications from the Office.

for Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
(703) 305-9750

cc: Thomas V. Smurzynski, Esq.
Lahive & Cockfield LLP
28 State Street
Boston, MA 02109-1784

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

TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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APR 2 3 2003

OFFICE OF PETITIONS

In re Application of	:
Suzanne M. Norquist et al	:
Application No. 10/268,544	: DECISION GRANTING STATUS
Filed: October 10, 2002	: UNDER 37 CFR 1.47(A)
For: SYSTEMS AND METHODS FOR	:
EVALUATING TELECOMMUNICATIONS	:
PROJECTS	:

This is in response to the petition under 37 CFR 1.47(a), filed January 13, 2003.

The petition is granted.

Petitioner has shown that 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 Petitions Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to the Office of Initial Patent Examination for preexamination processing.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

SUZANNE M. NORQUIST
113 CRAWFORD CIRCLE
GOLDEN, CO 80303

COPY MAILED

APR 23 2003

OFFICE OF PETITIONS

In re Application of
Suzanne M. Norquist and Paul Katz
Application No. 10/268,544
Filed: October 10, 2002
For: SYSTEMS AND METHODS FOR EVALUATING TELECOMMUNICATIONS PROJECTS

Dear Ms. Norquist:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks
Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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Commissioner for Patents
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APR 28 2010

OFFICE OF PETITIONS

SAMUEL MESSINGER
PO BOX 18685
JERUSALEM ISRAEL

In re Patent No. 6,983,855
Issue Date: January 10, 2006 :
Application No. 10/268,555 : DECISION ON PETITION
Filed: October 10, 2002 :
Patentee: Samuel Messinger :

This is a decision on the petition under 37 CFR 1.378(b), filed March 5, 2010, to accept the unavoidably delayed payment of the maintenance fee for the above-identified patent.

The petition under 37 CFR 1.378(b) is **DISMISSED**.

The above-identified patent issued January 10, 2006. Accordingly, the first maintenance fee could have been paid during the period from January 10, 2009 through July 10, 2009 without surcharge, or with a surcharge of $65 during the period from July 11, 2009 through January 10, 2010. No maintenance fee having been received, the patent expired on January 11, 2010.

Analysis:

37 CFR 1.378(b) provides that:

> Any petition to accept an unavoidably delayed payment of a maintenance fee must include:
>
> (1) The required maintenance fee set forth in 37 CFR 1.20(e) through (g) (currently $490);

(2) The surcharge set forth in 37 CFR 1.20(i)(1) (currently $700); and

(3) A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

The instant petition does not meet requirement (3) above.

With regards to requirement (3), acceptance of a late maintenance fee under the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 USC 133. **This is a very stringent standard.** 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. In addition, decisions 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.

Petitioner asserts "illness in our family, a new baby, and also a move" as his grounds for unavoidable delay.

With respect to the matter of illness, a showing of "unavoidable" delay based upon medical incapacitation must establish that petitioner's incapacitation was of such nature and degree as to render petitioner unable to conduct business (e.g., correspond with the Office by paying the maintenance fee) during the period between January 10, 2009 and March 5, 2010. Such a showing must be supported by a statement from petitioner's treating physician and such statement must provide the nature and degree of petitioner's incapacitation during the above-mentioned period.

With respect to the matter of "a new baby" and "a move", it is unclear how these matters unavoidably prevented petitioner from timely paying the maintenance fee.

Conclusion:

Any request for reconsideration of this decision must be filed within **TWO MONTHS** of the mailing date of this decision. Any such petition for reconsideration must be accompanied by the $400 petition fee set forth in §1.17(f). After decision on the petition for reconsideration, no further reconsideration or

review of the matter will be undertaken by the Commissioner. Accordingly, on request for reconsideration, it is extremely important that petitioner supply **any** and **all** relevant information and documentation in order to meet his burden of showing unavoidable delay.

If on request for reconsideration, the delayed payment of the maintenance fee is not accepted, then the $1,150 submitted for the maintenance fee and the surcharge set forth in §1.20(i) are subject to refund following the decision on the petition for reconsideration, or after the expiration of the time for filing such a petition for reconsideration, if none is filed. Petitioner may request a refund of the maintenance fee and surcharge by writing to: Mail Stop 16, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of the last decision rendered should accompany the request for refund. The $400 fee for requesting reconsideration is not subject to refund.

If petitioner can not establish unavoidable delay, petitioner may file a petition to reinstate the patent on the basis of unintentional delay under 37 CFR 1.378(c). Petitioner has until January 10, 2012, to file a petition under 37 CFR 1.378(c).[1] Petitioner may apply the maintenance fee and surcharge previously submitted with the instant petition towards the petition under 37 CFR 1.378(c). The surcharge for a petition under 37 CFR 1.378(c) is currently $1,640.

Further correspondence should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries specific to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: PTO/SB/66 (3 pages)
Privacy Act Statement (1 page)

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[1] See 37 CFR 1.378(c).

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
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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 05/03/2010

Applicant	: George Endel Deckner	: DECISION ON REQUEST FOR
Patent Number	: 7658942	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/268,556	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/10/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **227** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 05/13/2010

Applicant	: Michio Miyano	: DECISION ON REQUEST FOR
Patent Number	: 7639919	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/268,560	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/10/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1564** 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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WASHINGTON, DC 20231
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Paper No. 3

DAVID E. LOVEJOY
FLIESLER, DUBB, MEYER, & LOVEJOY
SUITE 400
FOUR EMBARCADERO CENTER
SAN FRANCISCO, CA 94111-4156

In re Application of	:	
SANFORD, JOHN RICHARD	:	
Application No. 10/268,563	:	DECISION ON REQUEST TO
Filed: October 10, 2002	:	WITHDRAW AS ATTORNEY
For: **COMMUNICATION DEVICE WITH FRONT-END ANTENNA AND FILTER INTEGRATION**	:	

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on July 17, 2003.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All of the attorneys/agents of record are granted the request for withdraw.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: JERRY H. MACHADO
1142 MOORE ROAD
WOODSIDE, CA 94062-1112

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WASHINGTON, DC 20231
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Paper No. 3

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

DAVID E. LOVEJOY
FLIESLER, DUBB, MEYER, & LOVEJOY
SUITE 400
FOUR EMBARCADERO CENTER
SAN FRANCISCO, CA 94111-4156

In re Application of
SANFORD, JOHN RICHARD
Application No. 10/268,564
Filed: October 10, 2002
For: **COMMUNICATION DEVICE WITH INTEGRATION IN SEPARATE TRANSMITTER AND RECEIVER ANTENNAS**

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on July 17, 2003.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All of the attorneys/agents of record are granted the request for withdraw.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: JERRY H. MACHADO
1142 MOORE ROAD
WOODSIDE, CA 94062-1112

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Paper No. 3

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

David E. Lovejoy
Fliesler, Dubb, Meyer & Lovejoy
Suite 400
Four Embarcadero Center
San Francisco CA 94111-4156

In re Application of
SANFORD
Application No. 10/268,568
Filed: October 10, 2002
For: COMMUNICATION DEVICE WITH FRONT-END INTEGRATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney or Agent of record filed on July 17, 2003.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Although petitioner failed to check the box requesting to change the address, it is presumed he meant to do so since a new address was provided. Accordingly, the request is **GRANTED**.

The attorney/agent listed is granted the request for withdraw.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc:
JERRY H. MACHADO
1142 MOORE ROAD
WOODSIDE, CALIFORNIA 94062-1112

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 9

ANGELA DALLAS SEBOR
1560 BROADWAY, SUITE 1200
DENVER, CO 80202-5141

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DEC 0 2 2003

OFFICE OF PETITIONS

In re Application of
Abner Becton et al
Application No. 10/268,621
Filed: October 9, 2002
Attorney Docket No. 3553-28

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.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

2011 South Clark Place
Crystal Plaza Two, Lobby
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

This file is being forwarded to Technology Center AU 1616.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

WOLF GREENFIELD & SACKS PC
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

In re Application of	:	
Wuidart, et al.	:	
Application No. 10/268,628	:	ON PETITION
Filed: October 10, 2002	:	
Attorney Docket No. S1022.80911US00	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed January 9, 2009.

The petition under 37 CFR 1.181 is **GRANTED**.

The application was held abandoned due to failure to timely file a reply to the non-final Office action, mailed May 7, 2008. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on August 8, 2008. The Office mailed a Notice of Abandonment on December 10, 2008.

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]

With the instant petition, petitioner has submitted a copy of a master docket report, showing all of his replies docketed for the due date of August 7, 2008. An entry for the instant application is absent, supporting the conclusion that the May 7, 2008 Office action was not received.

In view thereof, the petition is granted.

The application is being forwarded to Group Art Unit 2436 for re-mailing of the May 7, 2008 Office action, setting a new period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

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United States Patent and Trademark Office
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BAKER & BOTTS
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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OFFICE OF PETITIONS

In re Application of	:	
Stanley, Roy Craig	:	
Application No. 10/268,639	:	ON PETITION
Filed: October 10, 2002	:	
Attorney Docket No. AP34707 (067879.0109)	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 16, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal and requisite fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : January 12, 2007

Patent No. : 6,906,034 B2
Inventor(s) : Baxter
Issued : June 14, 2005
Title : **ACID-LABILE SUBUNIT (ALS) OF INSULIN-LIKE GROWTH FACTOR BINDING PROTEIN COMPLEX**
Docket No. : TRCA-009DIV7

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 or (703) 308-

BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

CBN/eme

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10/2/07

WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

In re Application of:
Gardes, Pascal et al.
Serial No.: 10/268,648
Filed: Oct. 10, 2002
Docket: S01022.80897
Title: INDUCTANCE AND ITS MANUFACTURING METHOD

DECISION ON PETITION

This is a decision on the petition filed on Jul. 2, 2007 by which petitioner requests review and withdrawal of the restriction requirement mailed Jul. 24, 2006, and that non-elected claims 5-20 be rejoined and examined on the merits. Claims 1-3 were elected for prosecution. This petition is being considered pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required. The $130.00 petition fee charged will be refunded upon request.

The petition is **granted-in-part**.

A review of the record reveals that on Jul. 24, 2006 the examiner issued a restriction requirement between combination and subcombination inventions. On Oct. 26, 2006, the applicant elected Group I invention with traverse. In his election, the applicant traversed the restriction requirement because the applicant did not believe there was a serious burden[1] of search to examiner to examine the non-elected claims 5-20. Claim 16 is also a generic claim. Therefore, claims 16-22 should have been examined together. On Jan. 26, 2007, the examiner was not

[1] MPEP 808.02 [R-5] Establishing Burden Where, as disclosed in the application, the several inventions claimed are related, and such related inventions are not patentably distinct as claimed, restriction under 35 U.S.C. 121 is never proper (MPEP § 806.05). If applicant voluntarily files claims to such related inventions in different applications, double patenting may be held. Where the inventions as claimed are shown to be independent or distinct under the criteria of MPEP § 806.05(c) - § 806.06, the examiner, in order to establish reasons for insisting upon restriction, must explain why there would be a serious burden on the examiner if restriction is not required. Thus the examiner must show by appropriate explanation one of the following: (A) Separate classification thereof: This shows that each invention has attained recognition in the art as a separate subject for inventive effort, and also a separate field of search. Patents need not be cited to show separate classification. (B) A separate status in the art when they are classifiable together: Even though they are classified together, each invention can be shown to have formed a separate subject for inventive effort when the examiner can show a recognition of separate inventive effort by inventors. Separate status in the art may be shown by citing patents which are evidence of such separate status, and also of a separate field of search. (C) A different field of search: Where it is necessary to search for one of the inventions in a manner that is not likely to result in finding art pertinent to the other invention(s) (e.g., searching different classes /subclasses or electronic resources, or employing different search queries, a different field of search is shown, even though the two are classified together. The indicated different field of search must in fact be pertinent to the type of subject matter covered by the claims. Patents need not be cited to show different fields of search. Where, however, the classification is the same and the field of search is the same and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among independent or related inventions.

persuaded by the applicant's traversal and made the restriction requirement final. On Jul. 2, 2007, the current petition was filed requesting withdrawal of restriction requirement.
In the petition, petitioner argues that the examiner failed to show the examination of all claims together would place a serious search burden on the examiner. Petitioner is of opinion that the search for the subject matter covered in the claims of both Groups I, II and III would not place a serious burden on the examiner because the present non-elected claims 5-15 in Group II were examined before in the Office action of Nov. 1, 2005. With regard to claims 16-22 (Group III invention), petitioner alleges that claim 16 is a generic claim, therefore, there could be no undue burden on the examiner to search and examine claims 1-3 and 5-22. In response, the examiner disagreed and stated in his Office action of Jan. 26, 2007, that claim 16, in fact, is not a generic claim or a linking claim. The examiner also stated that there would be a burdensome search to examine the inventions of Groups I, II and III because each invention would require completely different search queries that would be non-coextensive.

In judging the propriety of the restriction requirement, the related inventions, as claimed, must be shown to be distinct in accordance with MPEP 802.01. As the examiner indicated in the restriction requirement of Jul. 24, 2006, the inventions of Groups II, III and Group I are related as combination and subcombination, respectively. Inventions in this relationship are distinct if it can be shown to satisfy the conditions set forth in MPEP § 806.05(c). The examiner stated in the restriction requirement of Jul. 24, 2007, the combination (Groups II, III) as claimed does not require the particulars of the subcombination (Group I) as claimed because Groups II, III do not require the particular and specific coating step filling a cavity with conductive material, as required by Group I. The subcombination (Group I) has separate utility, or a separately usable process, of coating by filling. Because these inventions are independent or distinct and have acquired a separate status in the art and their recognized divergent subject matter, therefore, restriction for examination purposes is proper. With regard to Inventions of Groups II and III, the examiner held that they are directed to related inventions of an inductor. In order to show the related inventions are distinct as claimed, the inventions must not overlap in scope, i.e., are mutually exclusive; the inventions as claimed are not obvious variants; and the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect, MPEP § 806.05(j). In the instant case, Groups II and III each have materially different functions or effects of distinct process steps. Groups II and III each have separately usable processes that would be non-coextensive and divergent, requiring different or distinct line of patentability. Group II requires oxidizing the entire porous region in the semiconductor substrate, which is not required in Group III. Group III requires converting a portion of the semiconductor material adjacent to the cavity into an insulating material, which is not required in Group II. Because these inventions are independent or distinct for the reasons given above and the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

Applicant does not traverse the rationale set forth above by the examiner that the inventions are independent or distinct as claimed. However, even if the application includes inventions that are independent or distinct as claimed, the examiner must show that there is a serious burden if restriction is not required. As part of any restriction requirement, the search and examination for each of the three claimed inventions must be considered a serious burden on the examiner if restriction were not required. See M.P.E.P. § 808.02. Aside from the different classifications

indicated in the requirement, the search for the injection device would involve areas such as a monolithic circuit, for example, class 29, subclass 852, which are diverse from the search for an inductor and circuit and vice versa. Similarly, the search for the combination of an inductor and circuit of Group III would involve areas where inductors are found, for example, class 438, subclass 770 which is diverse from the search for a monolithic circuit. Finally, the search for the combination of an inductor and circuit of Group II also involves Class 29, Subclass 602.1, which is not diverse from the claimed Invention of Group II because both Groups I and II Inventions involve Class 29. Therefore, it cannot be said that the searches for Group I and II Inventions are diverse.

It is clear from the record that the examiner has demonstrated that a serious burden exists between Inventions of Groups I or II and III, but not between Groups I and II. Also, a review of the record reveals that claims 5-15 were examined in the Office action of Nov. 1, 2005 and no restriction requirement was made at that time. Therefore, the examiner has not shown any undue burden of search for restriction purposes. Claims 5-15 must be rejoined and examined. Petitioner's argument that claim16 is generic is not persuasive because there was no election of species requirement (37 CFR § 1.146[2]) given by the examiner in this case. Petitioner also fails to explain why claim 16 is readable on all disclosed species, if any, in this application. Therefore, the question of whether claim 16 is generic is not applicable here. The current restriction requirement in question was given under M.P.E.P. § 803[3].

Conclusion

For the reasons outlined above, the restriction requirement promulgated in the restriction requirement, dated Jul. 24, 2007, between Groups I and II, is hereby withdrawn. The restriction requirement between Groups I and III and II and III is in accordance with proper Office procedure. Accordingly, that part of the restriction requirement involving Group III stands. In summary, the examiner is directed to rejoin and examine claims 5-15 along with the elected claims 1-3 in the next Office action. Claims 16-22 (the Group III invention) remain withdrawn from consideration due to a non-elected invention.

The application has been forwarded to Examiner Tugbang of Art Unit 3729 for further examining of claims 1-3 and 5-15 along with the latest amendment filed on Jul. 2, 2007. The examiner mailed a non-final rejection on Sep. 24, 2007. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any

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[2] 37 CFR§ 1.146 Election of species. In the first action on an application containing a generic claim to a generic invention (genus) and claims to more than one patentably distinct species embraced thereby, the examiner may require the applicant in the reply to that action to elect a species of his or her invention to which his or her claim will be restricted if no claim to the genus is found to be allowable. However, if such application contains claims directed to more than a reasonable number of species, the examiner may require restriction of the claims to not more than a reasonable number of species before taking further action in the application.

[3] 803 [R-3] 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.

The petition is Granted-in-Part.

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

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TECHNOLOGY LAW OFFICES
P.O. BOX 818
MIDDLEBURG, VA 20118

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MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Gerhardt Schurig et al	:	
Application No. 10/268,673	:	ON PETITION
Filed: October 11, 2002	:	
Attorney Docket No. None	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 22, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The 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 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 January 24, 2004.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being forwarded to Technology Center AU 1645.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: JAMES W. HINEY
1872 PRATT DRIVE, SUITE 1100
BLACKSBURG, VA 24060

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P.O. Box 818
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MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of

Schurig, et al. :

Application No. 10/268,673

: DECISION ON PETITION

Filed: October 11, 2002

:

Attorney Docket No.

This is a decision on the petition under 37 CFR 1.137(b), filed January 11, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 16, 2005, 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 August 18, 2005. A Notice of Abandonment was mailed on January 13, 2006.

The amendment filed January 11, 2007, is noted.

The application is being forwarded to Technology Center 1600, GAU 1645 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Akira Ishisaka	: DECISION ON REQUEST FOR
Patent Number	: 7630920	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/268,680	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/11/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1733** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Patent No. : 7020961 B2
Ser. No. : 10/268,722
Inventor(s) : KANEDA, YUTAKA
Issued : 04/04/06
Title : **METHOD FOR MANUFACTURING A BUMP-ATTACHED WIRING CIRCUIT BOARD**
Docket No. : **109984.01**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Lamonte M. Newsome

Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

JAMES A. LOIFF
OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

LMN

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JJGJr: 06-06

Paper No: 16

JAMES A. LOIFF
OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

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JUN 19 2006

OFFICE OF PETITIONS

In re Application of:	:	
Kaneda, et al.	:	
Patent No.: 7,020,961	:	
Issue Date: 4 April, 2006	:	
Application No. 10/268,722	:	ON PETITION
Filed: 11 October, 2002	:	
Attorney Docket No.: 109984.01	:	

This is a decision on the request filed on 8 May, 2006, under 37 C.F.R. §3.81 wherein Petitioner seeks the have the Office accept the correction of the instant patent to reflect issuance in the name of the assignee, and considered under 37 C.F.R. §1.323 to correct Applicant/Petitioner's error in the issuance of the patent to the Assignee under 37 C.F.R. §1.183 (for waiver) and 37 C.F.R. §3.81–the Issue Fee transmittal was submitted with an error as to the assignee identification.

The petition is **GRANTED**.

BACKGROUND

As is evident from the caption, above, the instant application:

- was filed on 11 October, 2002; and
- issued as a patent on 4 April, 2006

The file is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction in due course consistent with the recorded co-assignment to add co-Assignee **Sony Chemicals Corp.**, Tokyo (JP), the substance of which was filed herein.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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Edwards Angell Palmer & Dodge LLP
111 HUNTINGTON AVENUE
BOSTON, MA 02199

Mail Date: 04/21/2010

Applicant	: Choong-Chin Liew	: DECISION ON REQUEST FOR
Patent Number	: 7598031	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/268,730	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/09/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **108** 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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IBM CORPORATION
ROCHESTER IP LAW DEPT. 917
3605 HIGHWAY 52 NORTH
ROCHESTER, MN 55901-7829

Mail Date: 04/20/2010

Applicant	: Dale Larry Christensen	: DECISION ON REQUEST FOR
Patent Number	: 7619867	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/268,738	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/10/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2168** 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. 5

WORLDCOM, INC.
Technology Law Department
1133 19th Street, N.W.
Washington DC 20036

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APR 2 8 2003

OFFICE OF PETITIONS

In re Application of
Jayram, Aydin, Brownmiller & Bencheck
Application No. 10/268,766
Filed: October 11, 2002
Attorney Docket No. RIC-01-049
For: SYSTEM AND METHOD OF SETTING THRESHOLDS FOR OPTICAL PERFORMANCE PARAMETERS

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed February 10, 2003 (certificate of mailing date February 6, 2003).

The petition is granted.

Petitioners have shown that the nonsigning inventors, Aydin and Brownmiller, have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, petition and the exhibits to the petition establish that the inventors were mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that they sign the declaration within a reasonable amount of time. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the nonsigning inventors at their respective last known address, as given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CEGNIZ AYDIN
2813 CORBY DR.
PLANO TX 75025

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APR 2 8 2003

OFFICE OF PETITIONS

In re Application of
Jayram, Aydin, Brownmiller & Bencheck
Application No. 10/268,766
Filed: October 11, 2002
Attorney Docket No. RIC-01-049
For: SYSTEM AND METHOD OF SETTING THRESHOLDS FOR OPTICAL PERFORMANCE PARAMETERS

LETTER

Dear Mr. Aydin:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code); and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: WORLDCOM, INC.
Technology Law Department
1133 19th Street, N.W.
Washington DC 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

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CURTIS BROWNMILLER
405 S. GROVE RD.
RICHARDSON TX 75025

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APR 2 8 2003

OFFICE OF PETITIONS

In re Application of
Jayram, Aydin, Brownmiller & Bencheck
Application No. 10/268,766
Filed: October 11, 2002
Attorney Docket No. RIC-01-049
For: SYSTEM AND METHOD OF SETTING THRESHOLDS FOR OPTICAL PERFORMANCE PARAMETERS

LETTER

Dear Mr. Brownmiller:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: WORLDCOM, INC.
Technology Law Department
1133 19th Street, N.W.
Washington DC 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

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APR 0 7 2003

OFFICE OF PETITIONS

WORLDCOM, INC.
Technology Law Department
1133 19th Street, N.W.
Washington, DC 20036

In re Application of
Jayaram, et al.
Application No. 10/268,768
Filed: October 11, 2002
Attorney Docket No.: COS-01-031
For: METHOD AND SYSTEM FOR PERFORMANCE MONITORING IN AN OPTICAL NETWORK

DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(a), filed February 10, 2003.

Petitioner has shown that inventors Cegniz Aydin and Curtis Brownmiller have refused to join in the filing of the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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CURTIS BROWNMILLER
405 S. GROVE ROAD
RICHARDSON, TX 75081

In re Application of
Jayaram, et al.
Application No. 10/268,768
Filed: October 11, 2002
Attorney Docket No.: COS-01-031
For: METHOD AND SYSTEM FOR PERFORMANCE MONITORING IN AN OPTICAL NETWORK

LETTER

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APR 0 7 2003
OFFICE OF PETITIONS

Dear Sir:

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(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) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 6

WORLDCOM, INC.
Technology Law Department
1133 19th Street, N.W.
Washington DC 20036

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APR 2 8 2003

OFFICE OF PETITIONS

In re Application of
Jayram, Aydin, Brownmiller & Bencheck
Application No. 10/268,770
Filed: October 11, 2002
Attorney Docket No. RIC-01-050
For: SYSTEM AND METHOD FOR OPTICAL PERFORMANCE DATA COLLECTION

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed February 10, 2003 (certificate of mailing date February 6, 2003).

The petition is granted.

Petitioners have shown that the nonsigning inventors, Aydin and Brownmiller, have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, petition and the exhibits to the petition establish that the inventors were mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that they sign the declaration within a reasonable amount of time. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the nonsigning inventors at their respective last known address, as given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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CURTIS BROWNMILLER
405 S. GROVE RD.
RICHARDSON TX 75025

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APR 2 8 2003

OFFICE OF PETITIONS

In re Application of :
Jayram, Aydin, Brownmiller & Bencheck :
Application No. 10/268,770 :
Filed: October 11, 2002 : LETTER
Attorney Docket No. RIC-01-050 :
For: SYSTEM AND METHOD FOR OPTICAL :
PERFORMANCE DATA COLLECTION :

Dear Mr. Brownmiller:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: WORLDCOM, INC.
Technology Law Department
1133 19th Street, N.W.
Washington DC 20036

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CEGNIZ AYDIN
2813 CORBY DR.
PLANO TX 75025

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APR 2 8 2003

OFFICE OF PETITIONS

In re Application of
Jayram, Aydin, Brownmiller & Bencheck
Application No. 10/268,770
Filed: October 11, 2002
Attorney Docket No. RIC-01-050
For: SYSTEM AND METHOD FOR OPTICAL PERFORMANCE DATA COLLECTION

LETTER

Dear Mr. Aydin:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: WORLDCOM, INC.
Technology Law Department
1133 19th Street, N.W.
Washington DC 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

WORLDCOM, INC.
Technology Law Department
1133 19th Street, N.W.
Washington DC 20036

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MAY 07 2003

OFFICE OF PETITIONS

In re Application of Jayaram, Aydin, Brownmiller and Bencheck Application No. 10/268,771 Filed: October 11, 2002 Attorney Docket No. For: SYSTEM AND METHOD FOR DETERMINING A CAUSE OF ELECTRICAL SIGNAL DEGRADATION BASED ON OPTICAL SIGNAL DEGRADATION	DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed February 10, 2003.

The petition is granted.

Petitioner has shown that Cengiz Aydin and Curtis Brownmiller, the non-signing inventors have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Brian C. Oakes establishes that the inventors were mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that they 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 inventors at the addresses 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 the 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Cegniz Aydin
2813 Corby Drive
Plano, TX 75025

In re Application of Jayaram, Aydin, Brownmiller and Bencheck Application No. 10/268,771 Filed: October 11, 2002 Attorney Docket No. For: SYSTEM AND METHOD FOR DETERMINING A CAUSE OF ELECTRICAL SIGNAL DEGRADATION BASED ON OPTICAL SIGNAL DEGRADATION	LETTER

COPY MAILED

MAY 07 2003

OFFICE OF PETITIONS

Dear Mr. Aydin:

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

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

WORLDCOM, INC.
Technology Law Department
1133 19th Street, N.W.
Washington DC 20036

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Curtis Brownmiller
405 S. Grove Rd.
Richardson, TX 75081

In re Application of
Jayaram, Aydin, Brownmiller
and Bencheck
Application No. 10/268,771
Filed: October 11, 2002
Attorney Docket No.
For: SYSTEM AND METHOD FOR
DETERMINING A CAUSE OF
ELECTRICAL SIGNAL DEGRADATION
BASED ON OPTICAL SIGNAL
DEGRADATION

LETTER

COPY MAILED

MAY 07 2003

OFFICE OF PETITIONS

Dear Mr. Brownmiller:

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
Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

WORLDCOM, INC.
Technology Law Department
1133 19th Street, N.W.
Washington DC 20036

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ALEXANDRIA, VA 22313-1450
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AUG 4 2004

DCM

In re Application of
John E. Stauffer
Serial Number: 10/268,803
Filed: October 11, 2002
For: CONCENTRATED PROCESS FOR THE PRODUCTION OF AN ALKENYL SUBSTITUTED AROMATIC COMPOUND

PETITION UNDER M.P.E.P.708.02 IV

This is in response to the petition filed April 14, 2004, 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

Joseph V. Colaianni
PATTON BOGGS LLP
ATTORNEYS AT LAW
2550 M Street, NW
Washington, DC 20037-1350

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 21, 2007

TO SPE OF : ART UNIT 2189

SUBJECT : Request for Certificate of Correction on Patent No.: **7043599 B1 – 10/268808**

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Reginald B. Bragg
SPE

2189
Art Unit

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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CHRISTOPHER DEVRIES
GENERAL MOTORS CORPORATION
LEGAL STAFF, MAIL CODE 482-C23-B21
P.O. BOX 300
DETROIT, MI 48265-3000

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JUN 23 2005

OFFICE OF PETITIONS

In re Application of :
Jeffrey J. Allen, et al. :
Application No. 10/268,829 :
Filed: October 10, 2002 :
Attorney Docket No. GP-301763 :

ON PETITION

This is a decision in response to the petition, filed April 18, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed August 2, 2004. A Notice of Abandonment was mailed on March 16, 2005. In response, on April 18, 2005, the present petition.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

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, the fee for a 3-month extension of time paid on February 25, 2005 was not necessary and will be credited to counsel's deposit account.

The application is being referred to Technology Center AU 3747 for consideration of the amendment filed February 25, 2005.

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
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

COPY MAILED
MAY 21 2004
OFFICE OF PETITIONS

In re Application of :
Michael Wayne Allerellie :
Application No. 10/268,858 : NOTICE
Filed: October 10, 2002 :
Attorney Docket No. 5164-71499 :

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 application file is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FROM DIRECTORS OFFICE

OCT 0 4 2005

TECHNOLOGY CENTER 3600

BERESKIN AND PARR
40 KING STREET WEST
BOX 401
TORONTO ON M5H 3Y2 CA CANADA

In re Application of
David E. Haskins
Application No. 10/268,887
Filed: October 11, 2002
For: ANIMAL HABITAT

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on June 21, 2005. There is no fee for this petition.

The petition is **DISMISSED.**

A review of the file record reveals that the application became abandoned for failure to respond to the Notice of Non-Compliant Amendment mailed September 21, 2004, which set a one-month extendable response period. A Notice of Abandonment was mailed on May 20, 2005 stating that no reply had been received to the Office letter (Notice of Non-Compliant Amendment) mailed September 21, 2004.

Applicant's petition indicates that the Notice of Non-Compliant Amendment mailed September 21, was never received. In support thereof applicant has provided a copy of the firm's due date report printed on October 21, 2004.

There is a strong presumption that Office communications properly addressed and delivered to the United States Postal Services, are in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date ***at and around*** October 21, 2004. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

The petitioner has failed to comply with requirements (2) and (3) indicated above. Petitioner has failed to provide the statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. Petitioner only states that an examination of the "appropriate files" was conducted and no copy of an Office action mailed October 21, 2004 was found. While applicant has provided docket record with a copy of the list of all responses in the practitioner's office with the due date at October 21, 2004, a complete docket record with a copy of the list of all responses in the practitioner's office with the due date ***at and around*** October 21, 2004 is required.

Petitioner's evidence of non-receipt of the Office communication mailed October 21, 2004 is insufficient to withdraw the holding of abandonment, and 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 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Steven N. Meyers
Special Program Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/rjc 09/23/05

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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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MARK M. FRIEDMAN
C/O DISCOVEY DISPATCH , 9003 FLIRIN WAY
UPPER MARLBORO MD 20772

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JUN 0 9 2008

In re Application of	:	
Moran et al.	:	
Application Number: 10/268892	:	ON PETITION
Filing Date: 10/11/2002	:	
Attorney Docket Number: 246/122	:	

This is a decision on the petition to withdraw the holding of abandonment filed on May 19, 2008.

This application became abandoned on March 20, 2008, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on December 19, 2007, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on April 14, 2008.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to non-receipt of the Notice of Allowance and Fee(s) Due mailed on December 19, 2007. Petitioners' registered patent practitioner, Mark M. Friedman, states that all correspondence from the USPTO is received by Mr. Bill Polkinghorn (hereinafter "Polkinghorn") of Discovery Dispatch, 9003 Florin Way, Upper Marlboro, MD, (hereinafter "the Maryland address") and is then forwarded by Polkinghorn to attorney Friedman's address of 7 Jobtinsky St, Ramat Gan, Israel.

Attorney Friedman has included his docketing records and a statement that a search of the file jacket and docket records reveals that the Notice of Allowance and Fee(s) Due was not received. Additionally, a declaration from statement has been included from Polkinghorn, stating that he receives mail as the local agent for attorney Friedman, then forwards the mail to attorney Friedman's address.

A review of the record indicates no irregularity in the mailing of the Notice of Allowance and Fee(s) Due mailed on December 19, 2007, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice of Allowance and Fee(s) Due mailed on December 19, 2007 was properly mailed to the address of record. This presumption may be overcome by a showing

that the Notice of Allowance and Fee(s) Due mailed on December 19, 2007 was not in fact received.

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).

The petition must be dismissed because petitioner has not provided an adequate showing that the Notice of Allowance and Fee(s) Due was not received at the correspondence address of record with the USPTO. Petitioners state that all correspondence was received at the Maryland address, and then forwarded to Attorney Friedman in Israel, where it would be docketed and logged in. As such, the mail logs and docket reports serve as evidence only that the Notice of Allowance and Fee(s) Due was not received at Attorney Friedman's Israel address after having been allegedly forwarded from the Maryland address, not that the Office action was not received at the correspondence address of record.

In summary, the showing of record suggests that the Notice of Allowance and Fee(s) Due may have been lost after receipt at the Maryland address rather than being forwarded to Israel. Petitioners must therefore provide a showing that the docketing system used by Polkinghorn is adequate. The showing must be supported by mail logs and docket records if any, showing that the Office action was not received at the correspondence address of record.

It is further noted that a correspondence address/fee change was entered on August 3, 2007, changing the correspondence address to Customer Number 71511: "Mark M. Friedman, c/o Discovey (*sic*) Dispatch, 9003 Flirin (*sic*) Way, Upper Marlboro, MD 20772." It appears, as such, that the correspondence address as changed contains typographical errors, which may have contributed to the Notice of Allowance and Fee(s) Due not being received. Failure to provide the correct correspondence address (or Customer Number) is an avoidable mistake. Withdrawal of the holding of abandonment is not appropriate in situations where the abandonment resulted from a mistake on the part of the petitioner.

Accordingly, the showing of record is insufficient to warrant withdrawal of the holding of abandonment. Petitioners may wish

correct the address associated with the customer number if that address contains typographical errors.

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. **This time period is not extendable.**[1]

ALTERNATIVE VENUE

Petitioner may wish to consider filing a petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after 8 June, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that

[1] 37 CFR 1.181(f).

the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl:

PTO/SB/64

Cc:

MARK M. FRIEDMAN
C/O DISCOVERY DISPATCH, 9003 FLORIN WAY
UPPER MARLBORO MD 20772

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.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures:
- ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Aug-08

MARK M. FRIEDMAN
C/O DISCOVEY DISPATCH , 9003 FLIRIN WAY
UPPER MARLBORO MD 20772

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AUG 14 2008

OFFICE OF PETITIONS

In re Application of :
Moran et al. :
Application Number: 10/268892 :
Filing Date: 10/11/2002 : ON PETITION
Attorney Docket Number: 246/122 :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on June 26, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on March 20, 2008, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on December 19, 2007, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on April 14, 2008. On May 19, 2008, a petition to withdraw the holding of abandonment was filed. On June 9, 2008, the petition was dismissed.

Receipt of the issue and publication fees filed on May 19, 2008, is acknowledged.

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application is referred to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 20 2005

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.go

HAUPTMAN KANESAKA BERNER PATENT AGENTS LLP
1700 DIAGONAL RD, SUITE 310
ALEXANDRIA, VA 22314-2848

Paper No. 10

In re Application of
FUKUO, MICHIHIRO
Appl No.: 10/268,950
Filed: October 11, 2002

DECISION GRANTING PETITION
37 CFR 1.181

This is a decision on petitioner's request filed August 27, 2004, requesting withdrawal of the holding of abandonment mailed August 24, 2004. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

In support of the request, petitioner has submitted a copy of a response and a copy of a PTO stamped post card receipt dated March 12, 2004. Furthermore, a review of the file indicates that the original response is now in the case.

In view of the above, the Notice of Abandonment mailed August 24, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the Technical Support Staff to return the application to an active status and for entry of the amendment. The application will then be forwarded to the examiner for appropriate action.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

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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FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

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OFFICE OF PETITIONS

In re Application of

GRECH, Sandro
Application No. 10/268,958
Filed: October 11, 2002
Attorney Docket No. **061539-0270**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed July 10, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that Foley & Lardner LLP does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **ANTONELLI, TERRY, STOUT & KRAUS, LLP**
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

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MADISON WI 53701-1497

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JUN 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,466,680	:
SANDRO GRECH	:
Issue Date: December 16, 2008	: DECISION ON REQUEST FOR
Application No. 10/268,958	: RECONSIDERATION OF
Filed: October 11, 2002	: PATENT TERM ADJUSTMENT
Attorney Docket No. 088245-0123	:

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705" filed February 3, 2009, requesting that the patent term adjustment determination for the above-identified patent be corrected from one thousand two hundred seven (1,207) days to one thousand four hundred eighty-six (1,486) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On December 16, 2008, the above-identified application matured into U.S. Patent No. 7,466,680 with a patent term adjustment of 1,207 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that a portion of the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR 1.703(b), 279 of 846 days, does not overlap with the period of adjustment due to examination delay, pursuant

to 37 CFR 1.702(a), of 1,237 days as these periods do not occur on the same days.

The period of adjustment under 37 CFR 1.702(b) ("Three Year Delay") is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued.[1]

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[1] 37 CFR 1.703(b) provides that the period of adjustment of the term of a patent shall not include the period equal to the sum of the following periods:

(1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

(2)

(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and

(ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension;

(3)

(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181;

(ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order was removed;

(iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and

(iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,

(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

In this instance, the Three Year Delay period of 846 days is calculated based on the application having been filed under 35 U.S.C. 111(a) on October 11, 2002, and a request for continued examination ("RCE") having been filed in this application on February 4, 2008. The filing of a RCE cuts-off the applicant's ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. 37 CFR 1.703(b)(1).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 30 days for applicant delay is not in dispute.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Year Delay terminated by the filing of a RCE (846 days) and the period of Examination Delay (1,237 days) to the extent that these periods of delay are not overlapping. However, patentees contend that 567 days of the period of delay for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) (December 12, 2003 to May 1, 2007) overlap with the Three Year Delay period (October 12, 2005 to February 4, 2008). Patentees assert that this overlapping period is the 567 days running from October 12, 2005 to May 1, 2007. Accordingly, patentees submit that the total period of adjustment for Office delay is 1,516 days, which is the sum of the period of Three Year Delay (846 days) and the period of Examination Delay (1,237 days), reduced by the period of overlap (567 days). As such, patentees assert entitlement to a patent term adjustment of 1,486 days (846 + 1,237 reduced by 567 overlap - 30 (applicant delay)).

Patentees' arguments have been considered, but are not persuasive. The Office concurs that as of the filing of the RCE on February 4, 2008, the application was pending three years and

846 days after its filing date. Further, the Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 1,237 days is correct. At issue is whether patentees should accrue 279 days of patent term adjustment (per patentees' definition of overlap) for the Office taking in excess of three years to issue the patent, as well as, 1,237 days for Office failure to take a certain action within a specified time frame (or Examination Delay).

The Office contends that all 846 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the

> application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of 37 CFR 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of

adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[2]

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period from the filing of the application on October 11, 2002, to the date of the filing of the RCE on February 4, 2008. The period of delay of 846 days for the Office taking in excess of three years to issue the patent overlaps with the 1,237 days accorded pursuant to 37 CFR

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[2] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

1.702(a)(1) during the pendency of the application prior to the filing of the RCE. The period of 1,237 days is considered the actual number of days that the issuance of the patent was delayed, considering the 846 days over three years to the filing of the RCE. As the 1,237 days had already been accorded, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAR 08 2010

OFFICE OF PETITIONS

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

In re Patent No. 7,466,680	:	DECISION ON REQUEST FOR
SANDRO GRECH	:	RECONSIDERATION OF
Issue Date: December 16, 2008	:	PATENT TERM ADJUSTMENT AND
Application No. 10/268,958	:	NOTICE OF INTENT TO ISSUE
Filed: October 11, 2002	:	CERTIFICATE OF CORRECTION
Atty Docket No. 088245-0123	:	

This is a decision on the petition filed on August 25, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred eighty-six (1486) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent** that the term of the above-identified patent is extended or adjusted by one thousand four hundred eighty-five (1485) days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on October 12, 2005, and ends on February 3, 2008, the day before the RCE was filed, and is 845 (not 846) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 1485, not 1486 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or

patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The required fee of $200.00 pursuant to 37 CFR 1.18(e) will be charged to the Deposit Account as authorized.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand four hundred eighty-five (1485) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,466,680 B2

DATED : Dec. 16, 2008 **DRAFT**

INVENTOR(S) : Grech

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 1207 days

Delete the phrase "by 1207 days" and insert – by 1485 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

MAILED

MAY 28 2010

OFFICE OF PETITIONS

In re Application of	:	
Debra A. Schwinn	:	
Application No. 10/268,969	:	DECISION GRANTING PETITION
Filed: October 11, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1579-754	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, May 28, 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 March 29, 2010 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 1635 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

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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Paper No. 032204

MAR 23 2004

BANNER & WITCOFF
1001 G Street N.W.
Suite 1100
Washington, DC 20001

In re Application of	)	
Paul P. Nguyen et al.	)	
Application No. 10/269,011	)	DECISION ON REQUEST TO
Filed: October 9, 2002	)	WITHDRAW FROM RECORD
For: Attorney Docket No. 006186.00001	)	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed October 15, 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 request meets all the above listed requirements.

The request is APPROVED.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Jose G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Sawyer Law Group LLP
Suite 406 Embarcadero Corporate Center
2465 East Bayshore Road
Palo Alto, CA 94303

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

John M Collins
Hovey Williams LLP
2405 Grand Boulevard
Suite 400
Kansas City MO 64108

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APR 1 7 2003

OFFICE OF PETITIONS

In re Antonio Jorge Schutz Reissue Application No. 10/269,015 Filing Date: October 10, 2002 Reissue of Patent No. 6,135,869 Original Issue Date: October 24, 2000 Attorney Docket No. 27589-RE	:	DECISION REFUSING STATUS UNDER 37 CFR 1.47(b)

This is in response to the "Petition under 37 CFR 1.47(b)," filed October 10, 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(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR §1.136(a).

The above-identified reissue application of patent No. 6,135,869 (Issued October 24, 2000) was deposited on October 10, 2002 with reissue declarations executed by assignees Adam Anderson and Carlos Azner; statements under 3.73(b) by Adam Anderson and Carlos Azner; a declaration in support of the petition by Carlos Azner; a written consent of assignees; and the instant petition (and petition fee by application against Deposit Account No. 19-0522)[1]. Antonio Jorge Schutz was named as sole inventor. Petitioners assert that status under § 1.47 is proper because sole

[1]37 CFR 1.172 (a) provides that:

A reissue oath must be signed and sworn to or declaration made by the inventor or inventors except as otherwise provided (see §§1.42, 1.43, 1.47), and must be accompanied by the written consent of all assignees, if any, owning an undivided interest in the patent, but a reissue oath may be made and sworn to or declaration made by the assignee of the entire interest if the application does not seek to enlarge the scope of the claims of the original patent. All assignees consenting to the reissue must establish their ownership interest in the patent by filing in the reissue application a submission in accordance with the provisions of §3.73(b) of this chapter.

inventor Schutz refuses to join in the reissue application[2].

§ 1.47(b) provides that:

> 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.

Having considered the evidence, it is concluded that rule 47 applicants have shown that inventor Schutz has refused to join in the reissue application after having been presented with the application papers. The declaration and the petition, both filed October 10, 2002, have been reviewed and found in compliance with 37 C.F.R. § 1.47(b), <u>except</u> that the petition does not include a statement of the last known address of inventor Schutz.

On the declaration, an address of "Lomas De Zamora, Argentina" was set forth. As this does not appear to be a complete mailing address, this could not be deemed a statement of the last known address of inventor Schutz for purposes of granting this petition. A proper mailing address for inventor Schutz is required so that the Office pursuant to § 1.47(c) may notify the inventor of this application's filing without his signature. A courtesy call was made to attorney Collins regarding this matter. Attorney Collins was not available; however, a message was left requesting the complete mailing address. This decision reflects that message and sets forth a definite period for reply.

On Request for Reconsideration, to avoid abandonment and attain 1.47 status, applicant must correct the noted deficiencies and provide a 1.47 petition in compliance with all applicable law.

Given the nature of the deficiency, a reply by facsimile is encouraged. The undersigned requests that any such facsimile transmission be preceded by a message at 703-305-0309 to advise the undersigned to expect the communication.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

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[2] A grantable petition under 37 C.F.R. 1.47(b) requires (1) an acceptable oath or declaration in compliance with 37 C.F.R. §1.63 and 1.64 or 1.175; (2) the rule 47 applicant must state his or her relationship to the inventor as required by 37 C.F.R. §1.64; (3) proof that the non-signing inventor cannot be found or reached after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (4) the petition fee; (5) a statement of the last known address of the non-signing inventor; (6) that rule 47 applicant make out a *prima facie* case (i) that the invention has been assigned to him or her or (ii) that the inventor has agreed in writing to assign the invention to him or her or (iii) otherwise demonstrate a proprietary interest in the subject matter of the invention; and (7) rule 47 applicant must prove that the filing of the application is necessary (i) to preserve the rights of the parties or (ii) to prevent irreparable damage. See MPEP §409.03(g).

or effective with any response mailed on or after May 1, 2003

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: Office of Petitions
2201 South Clark Place
Crystal Plaza Four, Suite 3C23
Arlington, VA

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
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

John M Collins
Hovey Williams LLP
2405 Grand Boulevard
Suite 400
Kansas City MO 64108

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JUL 0 7 2003

OFFICE OF PETITIONS

In re Antonio Jorge Schutz Reissue Application No. 10/269,015 Filing Date: October 10, 2002 Reissue of Patent No. 6,135,869 Original Issue Date: October 24, 2000 Attorney Docket No. 27589-RE	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(b)

This is in response to the "Request for Reconsideration of Petition under 37 CFR 1.47(b)," filed July 2, 2003.

The petition is **GRANTED**.

The above-identified reissue application of patent No. 6,135,869 (Issued October 24, 2000) was deposited on October 10, 2002 with reissue declarations executed by assignees Adam Anderson and Carlos Azner[1]; statements under 3.73(b) by Adam Anderson and Carlos Azner; a declaration in support of the petition by Carlos Azner; a written consent of assignees; and the instant petition (and petition fee by application against Deposit Account No. 19-0522)[2]. Antonio Jorge Schutz was named as sole inventor. On initial petition filed October 10, 2002, petitioner asserted that status under § 1.47 was proper because sole inventor Schutz refuses to join in the reissue application[3].

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[1] In combination, assignees Adam Anderson and Carlos Azner on behalf of Frigorifico San Carlos Sociedad Anonima are assignees of the entire right, title and interest in the instant reissue application.

[2] 37 CFR 1.172 (a) provides that:

A reissue oath must be signed and sworn to or declaration made by the inventor or inventors except as otherwise provided (see §§1.42, 1.43, 1.47), and must be accompanied by the written consent of all assignees, if any, owning an undivided interest in the patent, but a reissue oath may be made and sworn to or declaration made by the assignee of the entire interest if the application does not seek to enlarge the scope of the claims of the original patent. All assignees consenting to the reissue must establish their ownership interest in the patent by filing in the reissue application a submission in accordance with the provisions of §3.73(b) of this chapter.

[3] A grantable petition under 37 C.F.R. 1.47(b) requires (1) an acceptable oath or declaration in compliance with 37 C.F.R. §1.63 and 1.64 or 1.175; (2) the rule 47 applicant must state his or her relationship to the inventor as required by 37 C.F.R. §1.64; (3) proof that the non-signing inventor cannot be found or reached after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (4) the petition fee; (5) a statement of the last known address of the non-signing inventor; (6)

§ 1.47(b) provides that:

> 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.

The initial petition was dismissed for failure to include inventor Schutz's last known address in the petition. An address was provided, but it was not a complete mailing address.

On instant request for reconsideration, rule 47 applicants submitted the required statement of last known address. Applicants, thereby, satisfied all of the deficiencies in the initial petition.

However, applicants also stated that inventor Schutz had passed away at some time subsequent to the filing of the present application and Petition under 37 CFR 1.47(b).

Having considered the evidence, it is concluded that rule 47 applicants had shown as of the filing of the instant reissue application that inventor Schutz had refused to join in the reissue application after having been presented with the application papers. In addition, the declaration filed October 10, 2002, and the petitions filed October 10, 2002 and July 2, 2003 considered together, have been reviewed and found in compliance with 37 C.F.R. § 1.47(b). It is further noted that prior to the death of the inventor, rule 47 applicants made application for this patent and filed an acceptable declaration.

This application is hereby accorded Rule 1.47(b) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the address for the non-signing inventor given in the petition filed July 2, 2003. In addition, Notice of the filing of this application will be published in the Official Gazette.

The application file is being forwarded to Technology Center 3643 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson

Nancy Johnson
Petitions Attorney
Office of Petitions

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that rule 47 applicant make out a *prima facie* case (i) that the invention has been assigned to him or her or (ii) that the inventor has agreed in writing to assign the invention to him or her or (iii) otherwise demonstrate a proprietary interest in the subject matter of the invention; and (7) rule 47 applicant must prove that the filing of the application is necessary (i) to preserve the rights of the parties or (ii) to prevent irreparable damage. See MPEP §409.03(g).

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WASHINGTON, D.C. 20231
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DIW 03-03

Paper No. 7

LINDA K. RUSSELL
AIR LIQUIDE
SUITE 1800
2700 POST OAK BLVD.
HOUSTON TX 77506

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APR 0 1 2003

OFFICE OF PETITIONS

In re Application of	:
LeClerc, Preveyraud, Kissi,	:
Brunner, and Aubatier	: DECISION ACCORDING STATUS
Application No. 10/269,026	: UNDER 37 CFR 1.47(a)
Filed: 10 October, 2002	:
Atty Dkt No. Serie 5809	:

This is in response to the petition under 37 CFR 1.47(a), filed on 13 January, 2003.

The petition is **GRANTED**.

Petitioners have shown that non-signing inventor Delphine Brunner cannot be found. Specifically, petitioners have shown that a copy of the application papers was sent via the French postal service to the last known address of the non-signing joint inventor, but was returned as unclaimed.

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 application is being forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

DWood

Douglas I. Wood
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 03-03

Delphine Brunner
18 rue d'Arras
92160 ANTONY
FRANCE

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APR 0 1 2003

OFFICE OF PETITIONS

In re Application of
LeClerc et al.
Application No. 10/269,026
Filed: 10 October, 2002
For: RESPIRATORY ASSISTANCE APPARATUS WITH TWO-STAGE TURBINE

Dear Ms. Brunner:

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

LINDA K. RUSSELL
AIR LIQUIDE
SUITE 1800
2700 POST OAK BLVD.
HOUSTON TX 77506

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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JAN 25 2006

OFFICE OF PETITIONS

In re Patent No. 6,792,751 :
Issue Date: September 21, 2004 :
Application No. 10/269,043 : ON PETITION
Filed: October 11, 2002 :
Attorney Docket No. 018738-0235 :

This is a decision on the petition under 37 CFR 1.182, filed December 16, 2004, requesting issuance of duplicate Letters Patent for the above-identified application.

The petition is granted.

The Publishing Division is directed to issue duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250 x 139.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent. This matter is being referred to the Files Repository.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Krystal Paige, OPPD/ST, 8C32 (Fax 571-273-9756)

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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AUG 13 2007

OFFICE OF PETITIONS

VENABLE LLP
PO BOX 34385
WASHINGTON DC 20043-9998

In re	:	
Kume, et al.	:	DECISION REGARDING
Application No. 10/269,057	:	PATENT TERM ADJUSTMENT
Filed: October 11, 2002	:	
Patent No. 7,178,316	:	
Issued: February 20, 2007	:	
Attorney Docket No. 31671-184444 RK	:	

This decision is in response to the "REQUEST FOR REVIEW (PATENT TERM ADJUSTMENT)", filed May 30, 2007, requesting correction of the patent term adjustment (PTA).

The request is **DISMISSED**.

On February 20, 2007, the instant application issued as Patent No. 7,178,316 with a patent term adjustment of one thousand, thirty-eight (1038) days. Patentees state that they believe there was an error in their favor in the patent term adjustment calculation.

The Office determined a patent term adjustment of one thousand thirty-eight (1038) days based on an adjustment for PTO delay of one thousand forty (1040) days pursuant to 35 U.S.C.

154(b)(1)(A)(i) and 37 C.F.R. § 1.703(b)(4), reduced by two (2) days of applicant delay pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(b).

A review of the application does not reveal any errors in the calculation of the patent term adjustment. To the extent that Applicants are aware of any errors, Patentees should so advise the Office.

The Office thanks Applicants for their good faith and candor in attempting to bring this matter to the Office's attention. As such, no fee was required, and none has been charged.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MERCHANT & GOULD (MICROSOFT)
P.O. Box 2903
Minneapolis, MN 55402-0903

MAILED

JAN 30 2007

Technology Center 2100

In re Application of: Croney, et al.
Application No.: 10/269,072
Filed: October 11, 2002
Attorney Docket No.: 003797.00418
For: ADAPTIVE IMAGE FORMATTING CONTROL

DECISION ON PETITION *UNDER 37 CFR §1.181* to RESET PERIOD FOR REPLY

This is a decision on the petition filed August 19, 2005 under 37 CFR § 1.181 to reset the Office action response date under MPEP 710.06 for an Office action not received. The delay in responding to the instant petition is regretted.

A review of the file record indicates that a non-final Office action was mailed on April 28, 2005. An amendment and response, as well as the instant petition were filed in the instant application on August 19, 2005 along with a one-month extension of time. The above-identified papers were entered into the file and processed. Thereafter, the Examiner issued a final office action, which was mailed on December 8, 2005. Thus, the response filed August 19, 2005, along with one-month extension of time, are considered to have been timely filed and entered, rendering the request to reset the period for reply of the April 28, 2005 Office action moot.

Accordingly, in view of the above stated reason, the instant petition, filed on August 19, 2005 to reset the period for reply to the April 28, 2005 action, is rendered moot.

Accordingly, the petition is **DISMISSED as MOOT**.

It is noted that the instant application appears to have been improperly charged a three-months extension of time (in the amount of $1,020.00 on October 3, 2005) rather than the necessary one-month extension of time ($120.00). Applicant is reminded, in accordance with 37 CFR § 1.26, any request for refund must be filed within two years from the date the fee was paid.

The period for response to the latest Office action (final) continues to run from the date of mailing (i.e. November 30, 2006). Telephone inquiries should be directed to the undersigned at 571-272-3595.

Brian L. Johnson
Workgroup Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and Information Security

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MERCHANT & GOULD (MICROSOFT)
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MINNEAPOLIS MN 55402-0903

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MAR 06 2009

OFFICE OF PETITIONS

In re Application of
Joseph Keith Croney et al.
Application No. 10/269,072
Filed: October 11, 2002
Attorney Docket No. 40062.0264US01

DECISION ON PETITION

This is a decision on the petition, filed December 4, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed May 28, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on December 5, 2008.

Petitioner asserts that the Office action dated May 28, 2008 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 non-received 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.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2176 for re-mailing the Office action of May 28, 2008. The period for reply will run from the mailing date of the Office action.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

November 30, 2006

Patent No. : 6,670,472 B2
Ser. No. : 10/269084
Inventor(s) : Ansari, et al.
Issued : December 30, 2003
Title : **PROCESS FOR THE PREPARATION OF 10-METHOXYCARBAMAZEPINE**
Docket No. : 5150MAX-1

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent.

Comparison of the patent in column 5, line 40, and column 11, line 44, with the corresponding location in the application file reveals that there is no discrepancy.

In view of the foregoing, your request is hereby denied.

Elisha Evans
For Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

Brent P. Johnson, Esq.
SHERIDAN ROSS P.C.
1560 Broadway, Suite 1200
Denver CO 80202-5141

CBN/eme

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JUN 11 2003

#8

LADAS & PARRY
26 WEST 61ST STREET
NEW YORK NY 10023

In re Application of	:
Sajji Eswaraiah et al	:
Serial No.: 10/269,095	: PETITION TO MAKE SPECIAL
Filed: October 10, 2002	:
Attorney Docket No.: U014241-2	:

This is in response to applicants' petition filed June 2, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d). (Note, the petition appears to have been originally filed on January 10, 2003, but could not be acted on sooner due to missing parts of the application delaying pre-examination processing.)

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

The application will be forwarded an the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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FEDERAL RESERVE PLAZA
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BOSTON MA 02210-2206

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OFFICE OF PETITIONS

In re Application of :
Luc Wuidart et al :
Application No. 10/269,098 : ON PETITION
Filed: October 10, 2002 :
Attorney Docket No. S01022/80907 :

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 26, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2137 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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TC 3600

BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP
ATTN: IP DEPARTMENT DOCKET CLERK
2300 BP TOWER
200 PUBLIC SQUARE
CLEVELAND, OH 44114

Paper No. 6

In re application of
Paul Robert Russell et al.
Application No. 10/269,099 :
Filed: October 10, 2003 :
For: SYSTEM AND APPARATUS FOR MATERIALS : TRANSPORT AND STORAGE

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on October 30, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition A) above.

As to condition A) the attorneys associated with Customer Number 21130 do not correspond with those listed in the Power of Attorney in the declaration, thereby creating confusion as to who is withdrawing. To alleviate this problem, it is suggested that the request be resubmitted and that such request specifically state that the signing attorney is signing on behalf of all attorneys of record in this application.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/cps: 11/22/03

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ATTN: IP DEPARTMENT DOCKET CLERK
2300 BP TOWER
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CLEVELAND OH 44114

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OFFICE OF PETITIONS

In re Application of	:	
Russell et al.	:	
Application No. 10/269,099	:	ON PETITION
Filed: 10 October, 2002	:	
Atty Docket No. 127766.00101	:	

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on 19 January, 2006.

The petition is **GRANTED**.

The application became abandoned on 28 October, 2004, for failure to file a proper response to the final Office action mailed on 27 July, 2004, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in

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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)).

accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 3 March, 2005.

The petition is accompanied by an amendment after final rejection. As the examiner has determined that the amendment is a proper reply and should be entered, the petition may be favorably considered.

The address in the petition is different than the correspondence address of record. A courtesy copy of the decision is being sent to the address in the petition. All future correspondence will be mailed solely to the address of record.

The application is being referred to Technology Center Art Unit 3651 for further processing.

Telephone inquiries should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: Pepper Hamilton LLP
500 Grant Street
One Mellon Center, 50th Floor
Pittsburgh PA 15219

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Paper No.

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Application of	:	
Davis et al.	:	
Application No. 10/269,102	:	LETTER REGARDING
Filed: October 10, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. 09612.1036-01000	:	

This is in response to the "NOTICE OF ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT," filed April 8, 2008. Pursuant to their duty of candor and good faith to the Office, applicants disclose that the initial determination of patent term adjustment at the time of the mailing of the notice of allowance should be seven hundred fourteen (714) days.

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is seven hundred fourteen **(714)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 28, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 774 days. Applicants disclose that a Request for Continued Examination and Petition for Two-Month Extension of Time were filed on August 29, 2007, in response to the final Office action mailed March 30, 2007. As a result, applicants disclose that a period of reduction of 60 days should have been entered.

A review of the record confirms that in response to the final Office action mailed March 30, 2007, applicants did not file an RCE until August 29, 2007, three months and 60 days later. As such, a period of reduction of 60 days is being entered pursuant to 37 C.F.R. §1.704(b).

As such, the correct initial determination of the patent term adjustment at the time of the mailing of the notice of allowance is seven hundred fourteen (714) days.

As this letter was submitted as an advisement to the Office of an error in Applicant's favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks Applicant for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Office of Data Management for issuance of 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 and the period is not consumed by the request for continued examination).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

PALM INTRANET

Day : Friday
Date: 8/1/2008
Time: 14:23:58

PTA Calculations for Application: 10/269102			
Application Filing Date:	10/10/2002	PTO Delay (PTO):	820
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	46
Post-Issue Petitions:	0	Total PTA (days):	714
PTO Delay Adjustment:	-60		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
73	08/01/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		60	
62	03/28/2008	MAIL NOTICE OF ALLOWANCE			
61	03/27/2008	ISSUE REVISION COMPLETED			
60	03/27/2008	DOCUMENT VERIFICATION			
59	03/27/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
58	03/16/2008	NOTICE OF ALLOWABILITY			
57	03/14/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
50	02/06/2008	DATE FORWARDED TO EXAMINER			
49	01/24/2008	RESPONSE AFTER NON-FINAL ACTION		9	47
48	01/24/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
47	10/15/2007	MAIL NON-FINAL REJECTION			
46	10/12/2007	NON-FINAL REJECTION			
45	08/31/2007	DATE FORWARDED TO EXAMINER			
44	08/29/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
43	08/31/2007	DATE FORWARDED TO EXAMINER			
42	08/29/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
41	08/31/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
40	08/29/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	03/30/2007	MAIL FINAL REJECTION (PTOL - 326)			
38	03/29/2007	FINAL REJECTION			
37	01/19/2007	DATE FORWARDED TO EXAMINER			

36	01/05/2007	RESPONSE AFTER NON-FINAL ACTION			
35	10/05/2006	MAIL NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			
34	10/05/2006	MAIL NON-FINAL REJECTION			
33	09/29/2006	NON-FINAL REJECTION			
32	07/28/2006	PARALEGAL TD ACCEPTED			
31	07/28/2006	NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			
30	07/10/2006	TERMINAL DISCLAIMER FILED		0	27
29	07/10/2006	TERMINAL DISCLAIMER FILED			
28	07/27/2006	DATE FORWARDED TO EXAMINER			
27	07/10/2006	RESPONSE AFTER NON-FINAL ACTION		31	24
26	07/10/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	05/11/2006	CASE DOCKETED TO EXAMINER IN GAU			
24	03/09/2006	MAIL NON-FINAL REJECTION	820		-1
23	03/06/2006	NON-FINAL REJECTION			
22	04/13/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	07/28/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	12/07/2005	CASE DOCKETED TO EXAMINER IN GAU			
19	04/13/2005	REFERENCE CAPTURE ON IDS			
18.7	04/13/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	04/13/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	04/08/2005	CORRESPONDENCE ADDRESS CHANGE			
16	07/28/2003	REFERENCE CAPTURE ON IDS			
15	04/07/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	04/07/2005	CORRESPONDENCE ADDRESS CHANGE			
13	04/08/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
12.7	07/28/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	07/28/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	04/17/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	03/26/2003	APPLICATION DISPATCHED FROM OIPE			

9	03/26/2003	APPLICATION IS NOW COMPLETE			
8	03/03/2003	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM		6	4
5	03/03/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	11/25/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	10/18/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/10/2002	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Patent No. 7,424,550	:	
Davis et al.	:	REQUEST FOR RECONSIDERATION
Application No. 10/269,102	:	OF
Filed: October 10, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. 09612.1036-01000	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT-POST GRANT," filed September 17, 2008. Patentees request that the patent term adjustment indicated on the patent be corrected from five hundred ninety-four (594) days to seven hundred eight (708) days. This letter was recently forwarded to the undersigned for consideration.

The request for reconsideration of patent term adjustment is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of seven hundred eight (708) days.

Patentees dispute the period of reduction of 114 days entered for the April 8, 2008 filing of a letter that Applicant submitted pursuant to its duty of good faith and candor regarding an error in patent term adjustment.

Patentees are correct. A review of the record confirms that a period of reduction of 114 days was entered for the filing of a candor letter on April 8, 2008. No other paper was filed on April 8, 2008.

§ 1.704(e) provides that:

> Submission of an application for patent term adjustment under § 1.705(b) (with or without request under §1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(10) of this section.

Likewise, filing of a letter pursuant to comment 43 is covered by 37 CFR 1.704(e). Therefore, the Patent Term Adjustment was incorrectly reduced. Consequently 114 days will be properly restored to patentees patent term adjustment.

In view thereof, the patent should have issued with a revised patent term adjustment of seven hundred eight (708) days.

As the April 8 letter was submitted as an advisement to the Office of an error in Patentee's favor, the Office did not assess the $200.00 fee under 37 CFR 1.18(e). Likewise, no fee is required filed solely to remove the period of reduction entered due to the filing of the candor letter.

The Certificate of Correction Branch has been advised of this decision. The application is, thereby, 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 SEVEN HUNDRED EIGHT (708) days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,424,550 B2

DATED : **September 9, 2008** **DRAFT**

INVENTOR(S) : Davis et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 594 days

Delete the phrase "by 594 days" and insert – by 708 days--

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FRANCISCO RUBIO
THE ECLIPSE GROUP
SUITE B-104
26895 ALISO CREEK RD
ALISO VIEJO CA 92656

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AUG 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Clifford Yamamoto	:	
Application No. 10/269,104	:	
Filed: October 10, 2002	:	DECISION ON PETITION
Attorney Docket No. ST02008USU	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed July 8, 2005.

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of an international application filed on February 6, 2004. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

In view of the above, this application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application is being forwarded to Group Art Uni 2145 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Francisco A Rubio-Campos
10453 Raintree Lane
Northridge, CA 91326

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Francisco Rubio
The Eclipse Group
Suite B-104
26895 Aliso Creek Road
Aliso Viejo CA 92656

MAILED

APR 2 2 2009

OFFICE OF PETITIONS

In re Application of Yamamoto, et al. Application No. 10/269,104 Filed: October 10, 2002 Attorney Docket No. ST02008USU	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 12, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 29, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed October 29, 2008. Accordingly, the date of abandonment of this application is January 30, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and the publication fee of $300.00, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

This application is being referred to the Office of Data Management for processing into a patent.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THE ECLIPSE GROUP
10453 RAINTREE LANE
NORTHRIDGE CA 91326

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AUG 0 5 2005

OFFICE OF PETITIONS

In re Application of :
Yamamoto et al. :
Application No. 10/269,105 :
Filed: October 10, 2002 :
Attorney Docket No. ST02007USU(164-US-U1) :

ON PETITION

This is a decision on the petition filed on July 8, 2005, 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 February 6, 2004. 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 complies with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt, which sets forth the projected publication date of October 20, 2005, accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 2167.

Any inquiries concerning this decision 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

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JOHN R. BENEFIEL
280 DAINES ST.
#100 B
BIRMINGHAM MI 48009

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SEP 1 4 2005

OFFICE OF PETITIONS

In re Application of:
Clint, et al.
Application No. 10/269,109
Filed: October 10, 2002
Attorney Docket No. DUR-106

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), August 29, 2005, to revive the above-identified application.

The petition is **dismissed.**

This application became abandoned for failure to timely remit the issue fee of $1,400.00 and the publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed January 4, 2005. The Notice set forth a three (3) month statutory period for reply. Accordingly, this application became abandoned on April 5, 2005.

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)."

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of items (1) or (2) above.

As to item (1), the required reply is the payment of the issue fee and publication fee. An attempt was made to charge deposit account 50-0865 for these fee, but the account funds were insufficient. Any renewed petition must be accompanied by the issue fee of $1,400.00 and the publication fee of $300.00.

As to item (3), the petition fee of $1,500.00 was not found and, as stated previously, deposit account 50-0865 did not contain sufficient funds for the petition fee. Any renewed petition must be accompanied by the petition fee of $1,500.00.

The "Revocation of Power of Attorney and New Power of Attorney", filed August 29, 2005, is noted, but will not be entered at this time. The certificate under 37 CFR 3.73(b) filed on August 29, 2005, indicates that Dura Global Technologies is assignee of the entire interest in the invention associated with this application. However, a review of Office assignment records revealed that Atwood Mobile Products is also an assignee, yet no certificate under 37 CFR 3.73(b) executed by a representative of Atwood Mobile Products was found and the Revocation of Power of Attorney and New Power of Attorney is not signed by a person also authorized by Atwood Mobile Products to take such action. Further to this point, Section 324 of the *Manual of Patent Examining Procedure* provides, in pertinent part, that:

> When an assignee seeks to take action in a matter before the Office with respect to a patent application, patent, or reexamination proceeding and the right, title, and interest therein is held by more than one assignee, each partial assignee must provide a submission under 37 CFR 3.73(b). In each submission, the extent of each assignee's interest must be set forth so that the Office can determine whether it has obtained action by the entirety of the right, title and interest holders (owners). 37 CFR 3.73(c)(2). If the extent of the partial assignee's ownership interest is not set forth in the submission under 37 CFR 3.73(b), the Office may refuse to accept the submission as an establishment of ownership interest.

As petitioner has not made the required showing pursuant to 37 CFR 3.73, the request for revocation of power of attorney and change of address will not be entered at this time, but a courtesy copy of this decision will be mailed to the address provided in the petition.

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.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Dean B. Watson
2791 Research Drive
Rochester Hills, MI 48309

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOHN R. BENEFIEL
280 DAINES ST.
#100 B
BIRMINGHAM, MI 48009

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OFFICE OF PETITIONS

In re Application of	:	
Clint, et al.	:	ON PETITION
Application No. 10/269,109	:	
Filed: October 10, 2002	:	
Attorney Docket No. DUR-106	:	

This is a decision on the renewed petition under 37 CFR §1.137(b), November 10, 2005, to revive the above-identified application.

The petition is **granted**.
The application became abandoned for failure to timely remit the issue fee of $1,400.00 and the publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed January 4, 2005. The Notice set forth a three (3) month statutory period for reply. The application became abandoned on April 5, 2005. A petition under 37 CFR 1.137(b) was filed on August 29, 2005, and dismissed by a decision mailed September 14, 2005.

The issue fee of $1400.00 and publication fee of $300.00 were received and made of record.

The "Revocation of Power of Attorney and New Power of Attorney" filed November 10, 2005, is noted. but will not be entered. As stated in the petition decision of September 14, 2005, the assignee(s) must establish themselves as having the right to take action in the prosecution of the application. The decision required a certificate under 37 CFR 3.73(b) for both Dura Global Technologies and Atwood Mobile Products, both noted as assignees of the above-cited patent application. Petitioner only provide a certificate under 37 CFR 3.73(b) for Dura Technologies and has, therefore, not made the required showing pursuant to 37 CFR 3.73(b). Accordingly, the "Revocation of Power of Attorney and New Power of Attorney" will not be entered.

The application is being directed to the Office of Patent Publications for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Dean B. Watson
2791 Research Drive
Rochester Hills, MI 48309

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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SQUIRE, SANDERS & DEMPSEY L.L.P.
Two Renaissance Square
Suite 2700
40 North Central Avenue
Phoenix, AZ 85004-4498

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Erling Pedersen :
Application No. 10/269,115 : DECISION
Filed: October 7, 2002 : ON PETITION
Title of Invention :
BROADBAND COMMUNICATION PLATFORM :
AND METHODS OF NETWORK OPERATION :

This is a decision on the petition under 37 CFR 1.137(b), filed October 12, 2004, to revive the above-identified application based upon unintentional delay. The petition is properly treated as a petition to withdraw the abandonment of the application under 37 CFR 1.181.

The petition is **granted.**

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed November 20, 2003. The Office action set a three (3) month period for reply.

Applicant filed a Response Under 37 CFR 1.111[1], which included a three (3) month extension of time request and an Amendment, on May 21, 2004 (Certificate of Mailing dated May 19, 2004).

An Advisory Action was mailed on October 4, 2004. informing Applicant that the reply filed May 21, 2004 failed to place the application in condition for allowance.

No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on February 21,

[1] 37 CFR 1.111 is entitled "Reply by applicant or patent owner to a non-final office action."

2004. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

The instant petition

Applicant files this petition under 37 CFR 1.137(b) to revive the application.

A Review of the file

A review of the file reveals that the Response Under 37 CFR 1.111, filed May 21, 2004, included a request for continued examination of the application. As such, Applicant timely filed a proper reply to the final Office action, mailed November 20, 2003.

Accordingly, the holding of abandonment is improper and is hereby withdrawn.

The RCE fee, 395.00, has been charged to deposit account 19-3878, as authorized in the instant petition.

A refund of the petition fee, $685.00, has been credited to deposit account 19-3878, as authorized in the Transmittal of Response to Office Action, filed May 21, 2004.

The application file is being referred to Technology Center Art Unit 2682 for processing of the RCE and Amendment, filed May 21, 2004, and for continued examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney/Advisor
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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SQUIRE, SANDERS & DEMPSEY L.L.P.
TWO RENAISSANCE SQUARE
SUITE 2700
40 NORTH CENTRAL AVENUE
PHOENIX, AZ 85004-4498

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AUG 2 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Pedersen	:	
Application No. 10/269,115	:	DECISION ON PETITION
Filed: October 7, 2002	:	TO WITHDRAW
Attorney Docket No. 63582.00002	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 2, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by David E. Rogers on behalf of all attorneys of record.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

David Bucci
Petitions Examiner
Office of Petitions

cc: Erling Pedersen
1845 Merion Lane
Coral Springs, FL 33071

cc: Will Bachand
Bachand Law Office
PO Box 54244
Phoenix, AZ 85078-4244

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OCT 10 2006

OFFICE OF PETITIONS

DLA PIPER RUDNICK GRAY CARY US, LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO, CA 94303-2248

In re Application of	:
Pasternak	: DECISION ON PETITION
Application No. 10/269,123	:
Filed: October 10, 2002	:
Docket No.: 2100259-991102	:

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed August 11, 2006.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit a proper reply to the Notice of Allowance mailed March 20, 2006, which set a three month statutory period of time for reply. Notice of Abandonment was mailed July 31, 2006.

Petitioner asserts non-receipt of the Notice mailed March 20, 2006.

In the absence of any irregularity in the mailing of the Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner's arguments and supporting documentation have been carefully considered and support petitioner's conclusion that the Notice was not received.

In view thereof, the Notice of Abandonment mailed July 31, 2006 is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

This application is being forwarded to Technology Center 2600 for re-mailing of the Notice of Allowance. The period of time for reply will be as set forth in the new Notice of Allowance.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

DLA PIPER US LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO, CA 94303-2248

In re Application of
Eliezer Pasternak
Application No. 10/269,123
Filed: October 10, 2002
Attorney Docket No. 2100259-991102

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed November 7, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before August 9, 2007. A Notice of Abandonment was mailed on September 6, 2007. On November 7, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $720 issue fee and the $300 publication fee; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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CENTRAL COAST PATENT AGENCY
P.O. BOX 187
AROMAS CA 95004

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MAY 1 3 2005

OFFICE OF PETITIONS

In re Application of :
Vladimir N. Deryugin et al :
Application No. 10/269,124 :
Filed: October 10, 2002 :
Attorney Docket No. P3392CIP1 :

ON PETITION

This is a decision on the petition, filed May 3, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 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 (571) 272-3208.

The examiner of Technology Center AU 2141 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENT COUNSEL, MS/2061
LEGAL AFFAIRS DEPARTMENT
APPLIED MATERIALS, INC.
P.O. BOX 450A
SANTA CLARA, CA 95052

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JUN 2 5 2008

OFFICE OF PETITIONS

In re Application of :
Claes H. Bjorkman :
Application No. 10/269,129 : ON PETITION
Filed: October 10, 2002 :
Atty Docket No. 005294 USA/ETCH/DICP/JB1 :

This is a decision in response to the petition, filed January 22, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to an Office communication mailed January 29, 2007. A Notice of Abandonment was mailed on November 20, 2007. In response, on January 22, 2008, the present petition was filed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Attorney Keum J. Park appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

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 terminal disclaimer; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

This application is being referred to Technology Center AU 1792 for appropriate action by the Examiner in the normal course of business on the reply received January 22, 2008.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

DORSEY & WHITNEY
INTELLECTUAL PROPERTY DEPARTMENT
4 EMBARCADERO CENTER
SUITE 3400
SAN FRANCISCO, CA 94111

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SEP 3 0 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Toshihiro Kamei et al :
Application No. 10/269,138 :
Filed: October 10, 2002 :
Attorney Docket No. A-71403AJT :

This is a decision on the petition under 37 CFR 1.182, filed September 25, 2003, to change the order of the names of the inventors.

The petition is granted.

The order of the names of the inventors will be changed as follows:

1. Toshihiro Kamei
2. Richard A. Mathies
3. James R. Scherer
4. Robert A. Street

A corrected filing receipt with the desired order of inventorship is enclosed.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

DO NOT SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/9/07

TO SPE OF : ART UNIT 2819 Chang, Daniel

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/269166 Patent No.: 6794906

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: _____

Renford Barnie — **SPE**

2819 — **Art Unit**

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OFFICE OF PETITIONS

CASIMIR JONES, S.C.
440 SCIENCE DRIVE
SUITE 203
MADISON, WI 53711

In re Application of
Adam J. Matzger et al
Application No. 10/269,190
Filed: October 11, 2002
Attorney Docket No. UM-07446

ON PETITION

This is a decision on the petition, filed May 14, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 22, 2008 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 1639 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Request to Correct Inventorship.

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/13/08

TO SPE OF : ART UNIT 1641

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/269190 Patent No.: 7429238 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

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: _____

MARK L. SHIBUYA, PH.D.
SUPERVISORY PATENT EXAMINER

SPE

1641
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/10/07

Paper No.: _____

TO SPE OF : **Technology Center** 2814

10/269191

SUBJECT : Request for Certificate of Correction on Patent No.: 7071542 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:

_____

_____

_____

_____

_____

SPE — **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
www.uspto.gov

THOMAS, KAYDEN, HORSTEMEYER
& RISLEY
100 GALLERIA PARKWAY NW
SUITE 1750
ATLANTA, GA 30339-5948

COPY MAILED

APR 0 2 2007

OFFICE OF PETITIONS

In re Application of

Chris Corner

Application No. 10/269,213

Filed: October 3, 2002

Attorney Docket No. 011920-1400

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed December 4, 2006. This is also a decision on the petition under 37 CFR 1.137(b) filed August 22, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT.**

TREATMENT UNDER 37 CFR 1.181(a)

A review of the application file history reveals that a "Notice of Panel Decision from Pre-Appeal Brief Review" was mailed on February 22, 2006, allowing a period for filing an appeal brief of one month from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). The record further reflects that the an Appeal Brief was filed on August 22, 2006, with a general authorization to charge deposit account 20-0778 for any deficiencies in fees. Notwithstanding, a Notice of Abandonment was issued on September 8, 2006, noting that an Appeal Brief was not timely filed.

It is noted that the period for responding to the "Notice of Panel Decision from Pre-Appeal Brief Review" was extendable pursuant to 37 CFR 1.136(a). The Appeal Brief was timely with an extension of time within the fifth month. As a general authorization to charge a deposit account was present on August 22, 2006, the Office could have charged the deposit account for the extension of time within the fifth month and recognized the Appeal Brief as being timely filed. Based on the aforementioned, it is concluded that a timely Appeal Brief was filed in response to the Notice of Panel Decision from Pre-Appeal Brief Review". The holding of abandonment is withdrawn accordingly.

TREATMENT UNDER 37 CFR 1.137(B)

The petition under 37 CFR 1.137(b) is dismissed as moot as holding of abandonment is withdrawn pursuant to 37 CFR 1.181.

The petition fee of $1,500.00 will be refunded, in due course.

Deposit account 20-0778 will be charged $2,160.00 for the extension of time within the fifth month necessary to make the Appeal Brief filed August 22, 2006, timely.

The application file is being forwarded Technology Center 1700, GAU 1771 further processing

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-599

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MAY 2 3 2008

OFFICE OF PETITIONS

In re Application of

Corner, et al.

Application No. 10/269,213

Filed: October 3, 2002

Attorney Docket No. 011920-1400

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), April 24, 2008, and in duplicate on May 14, 2008, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1,440.00 and the publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed January 17, 2008. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on April 18, 2008. A Notice of Abandonment was mailed on April 28, 2008.

The issue fee, publication fee, and Form PTOL-85-b were received on April 24, 2008.

The application is being forwarded to the Office of Data Management for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Best Available Copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-05-09

TO SPE OF : ART UNIT 2831

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/269223 Patent No.: 7557298

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: HVN / Nov 10 - 2009

11/10/09

DIEGO GUTIERREZ
SUPERVISORY PATENT EXAMINER
SPE

2831
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. 6

DONALD L. BARTELS
COUDERT BROTHERS LLP
TWO PALO ALTO SQUARE
3000 EL CAMINO REAL FOURTH FLOOR
PALO ALTO, CA 94306-2121

MAIL

APR 05 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Yang, et al.

Application No. 10/269,225
Filed: October 11, 2002
For: METHOD AND SYSTEM FOR INTERFERENCE ASSESSMENT AND REDUCTION IN A WIRELESS COMMUNICATION SYSTEM

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on February 17, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys/agents of record are withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

CC: L. Howard Chen
Duane Morris, LLP
One Market, Spear Tower
San Francisco, CA 94105-1104

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

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO, IL 60661

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APR 1 4 2003

OFFICE OF PETITIONS

In re Application of Fuller, et al. Application No. 10/269,243 Filed: October 11, 2002 Docket No. PGI6044P0651US 01-241 For: DIFFERENTIALLY ENTANGLED NONWOVEN FABRIC FOR USE AS WIPES	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed March 6, 2003.

The petition is **GRANTED**.

Petitioner has shown that inventor Steve Mercer has refused to join in the filing of the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

STEVE MERCER
3825 WINTERBROOK COVE
BENTON, ARKANSAS 72015

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APR 1 4 2003

OFFICE OF PETITIONS

In re Application of :
Fuller, et al. :
Application No. 10/269,243 : LETTER
Filed: October 11, 2002 :
Docket No. PGI6044P0651US 01-241 :
For: DIFFERENTIALLY ENTANGLED :
NONWOVEN FABRIC FOR USE AS WIPES :

Dear Sir:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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PAUL J. ESATTO, JR.
SCULY, SCOTT, MURPHY & PRESSER
400 GARDEN CITY PLAZA
GARDEN CITY NY 11530

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FEB 06 2006

OFFICE OF PETITIONS

In re Patent No.6,873,216	:	
Issue Date: March 29, 2005	:	
Application No. 10/269,248	:	ON PETITION
Filed: October 11, 2002	:	
Attorney Docket No. 15931	:	

This is a decision on the petition filed August 19, 2005, under 37 CFR 1.183, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is Dismissed.

Petitioner seeks to have a Certificate of Correction issued in the name of **NEC ELECTRONICS CORPORATION, TOKYO, JAPAN.** 37 CFR 3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of the assignee is provided. 37 CFR 3.81(b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but *prior to issuance of a patent.* PTO assignment records reflect the recorded assignee's data on February 24, 2003, as **NEC ELECTRONICS CORPORATION, KANAGAWA, JAPAN** and not **Tokyo, Japan** as indicated on the Certificate of Correction form submitted with the instant petition. Therefore, a Certificate of Correction with the correct assignee's data must be submitted.

This matter is being referred to the Files Repository.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1]See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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PAUL J. ESATTO, JR.
SCULLY, SCOTT, MURPHY & PRESSER
400 GARDEN CITY PLAZA
GARDEN CITY NY 11530

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SEP 29 2006
OFFICE OF PETITIONS

In re Patent No. 6,873,216 :
Issue Date: March 29, 2005 :
Application No. 10/269,248 : ON PETITION
Filed: October 11, 2002 :
Attorney Docket No. 15931 :

This is a decision on the renewed petition filed February 9, 2006, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is granted.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208. 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

[1]See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

MILLS & ONELLO LLP
Suite 605
Eleven Beacon Street
Boston, MA 02108

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MAY 05 2003

OFFICE OF PETITIONS

In re Application of Joo Application No. 10/269,253 Filed: October 11, 2002 Atty. Dkt. No.: SA-0344 Title: COUNTER HAVING IMPROVED COUNTING SPEED	DECISION REFUSING STATUS UNDER 37 CFR 1.47(b)

This decision is in response to the petition under 37 CFR 1.47(b), filed March 12, 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(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed October 11, 2002 without an executed oath or declaration and naming Ki-mo Joo as sole inventors. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed November 12, 2002 requiring an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee;(4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is required to preserve the rights of the parties or to prevent irreparable damages.

The instant petition lacks items (1), (2), and (5) set forth above.

As to item (1), petitioner has failed to establish that despite diligent effort to do so, the inventor cannot be reached or located.

Where inability to reach or located a named inventor is alleged, petitioner is required to establish that diligent effort to locate the inventor and provide the inventor with a complete copy of the patent application (**specification,**

including claims, drawings, and oath or declaration) was made. Petitioner states, in essence, that the inventor's former employer lacked any knowledge of the inventor's whereabouts. Petitioner has failed to establish that any subsequent effort was made to locate the inventor.

Any renewed petition must be supported by evidence which sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. At the very least, a search of the internet and telephone directories should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

As to item (2), an acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. Any renewed petition should be accompanied by a proper oath or declaration wherein the name, address, residence, and citizenship of each inventor is set forth. The declaration should be executed by a corporate officer, such as the president, vice president, secretary, or treasurer of the assignee on behalf of and as agent for the non-signing inventor. The corporate officer's title or position must be identified in the declaration. If an officer is unavailable to execute the declaration, the declaration may be signed on behalf of the corporation by one whose proof of signing authority has been submitted to the Office, such as the corporation's attorney. The signature block of the non-signing inventor should remain unexecuted. Petitioner's attention is directed to MPEP 409.03(b) for further guidance.

As to item (5), petitioner has presented no corroborative evidence of proprietary interest in the instant application. Petitioner must establish that the invention has been assigned to applicant, that the inventor has agreed in writing to assign the invention to applicant, or that applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. Petitioner must submit a copy of an employment agreement between the inventor and applicant or a legal memorandum signed by an attorney familiar with the law of the relevant jurisdiction stating that a court of competent jurisdiction would by weight of authority in that jurisdiction award title of the invention to Rule 47 applicant.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

Application No. 10/269,253

By fax: (703) 308-6916
Attn.: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

KI-MO JOO
ROOM NO. 403-1405
DISTRICT #4 APT
CHUNGMYUNGMAEUL
YOUNGTONG-DONG
PALDAL-KU
SUWON-CITY
KYUNGGI-DO
KOREA

COPY MAILED

SEP 1 5 2003

OFFICE OF PETITIONS

In re Application of :
Joo :
Application No. 10/269,253 : LETTER
Filed: October 11, 2002 :
Atty. Dkt. No.: SA-0344 :
Title: COUNTER HAVING IMPROVED :
COUNTING SPEED :

Dear Sir:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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AMB

Paper No. 7

MILLS & ONELLO LLP
Suite 605
Eleven Beacon Street
Boston, MA 02108

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SEP 15 2003

OFFICE OF PETITIONS

In re Application of Joo Application No. 10/269,253 Filed: October 11, 2002 Atty. Dkt. No.: SA-0344 Title: COUNTER HAVING IMPROVED COUNTING SPEED	DECISION GRANTING STATUS UNDER 37 CFR 1.47(b)

This decision is in response to the renewed petition under 37 CFR 1.47(b), filed September 8, 2003.

The petition is **GRANTED**.

Petitioner has shown that despite diligent effort, inventor Ki-Mo Joo cannot be reached or located to execute the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

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 regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Kermit D. Lopez/Luis M. Ortiz
Ortiz & Lopez, PLLC, Patent Attorneys
PO Box 4484
Albuquerque, NM 87196-4484

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SEP 0 5 2006
OFFICE OF PETITIONS

In re Application of :
Lee Riggs :
Application No. 10/269,259 : ON PETITION
Filed: October 11, 2002 :
Attorney Docket No. 1000-1189 :

This is a decision on the petition under 37 CFR 1.137(a), filed June 30,2 006, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to file a timely response to the Notice of Allowance and Issue Fee Due mailed June 20, 2005, which set a statutory period for reply of three months from its mailing date. Extensions of time under 37 CFR 1.136(a) were not available. No response was received within the allowable period and the application became abandoned on September 21, 2005. A Notice of Abandonment was mailed on January 25, 2006.

Petitioner has established that the Notice of Allowance and Issue Fee Due were mailed to an incorrect address.

The issue fee, publication fee, and Form PTOL 85-B are noted and made of record.

The "Request for Change of Correspondence Address" first filed February 10, 2005, is noted and made of record.

The application file will be forwarded to the Office of Patent Publications for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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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FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO CA 94304

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NOV 1 0 2008

OFFICE OF PETITIONS

In re Application of
John URQUHART, et al
Application No. 10/269,297
Filed: October 10, 2002
Attorney Docket No. 333514-1100

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 3, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Sam L. Nguyen on behalf of the attorneys of record associated with Customer No. 38706.

The attorneys of record associated with Customer No. 38706 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 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).

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JOHN URQUHART
975 HAMILTON AVENUE
PALO ALTO, CA 94301

cc: WHEELOCK CHAN LLP
P.O. BOX 61168
PALO ALTO, CA 94306

UNITED STATES PATENT AND TRADEMARK OFFICE

PETDEC

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAR 31 2004

VP
PAPER NO. ___

In re Application of
Gordon L. Richard
Serial Number: 10/269298
Filed: October 11, 2002
For: METHOD AND APPARATUS FOR SEPARATING IONS FROM A FLUID STREAM

PETITION UNDER M.P.E.P.708.02 IV

This is in response to the petition filed October 11, 2002, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 IV of the MPEP is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

MARY M LEE, P.C.
3441 W. MEMORIAL ROAD
SUITE 8
OKLAHOMA CITY OK 73134

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

HUGHES & LUCE LLP
1717 MAIN STREET
SUITE 2800
DALLAS, TX 75201

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JAN 2 4 2003

OFFICE OF PETITIONS

In re Application of
Hernandez et al.
Application No. 10/269,303
Filed: October 11, 2002
Attorney Docket No. 13501:11

DECISION ON PETITION

This is a decision on the "Petition to Accept Corrected Application Papers," filed January 7, 2003. This petition is properly treated as a petition under § 1.53(e)(2)[1] to withdraw the "Notice to File Corrected Application Papers" mailed November 13, 2002.

Application papers in the above-identified application were filed on October 11, 2002. However, on November 13, 2002, the Office of Initial Patent Examination mailed a "Notice to File Corrected Application Papers," notifying applicants that replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 were required. In addition, figures 10A to 10D described in the specification appeared to have been omitted from the application.

In reply, petitioner timely filed the instant petition, along with a set of replacement drawings, including figures 10A to 10D. Petitioner further asserted that Figure 10 was enclosed with the application as filed. Petitioner acknowledged that the specification referred to figures 10A to 10D, but that figure 10 as originally filed did not include the number and letter combinations. Accompanying the petition was a copy of figure 10 as petitioner maintains it was originally filed.

It is obvious from the petition that no drawing was actually missing on October 11, 2002. Rather, the drawings of figures 10A-D were simply mislabeled as a result of applicant's filing error. (This is further confirmed, in that, a review of the application file reveals that figure 10, without the number and letter combination, was among the papers present in the application as filed on October 11, 2002). However, the "Notice to File Corrected Application Papers" mailed November 13, 2002, was correct in stating that Figures 10A-D described in the specification <u>appeared</u> to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

Accordingly, the petition is **<u>DISMISSED</u>**.

---

[1] (e) Failure to meet filing date requirements .
(2) Any request for review of ... 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.

The petition fee is required, since the petition was not necessary to correct any PTO error.

This application is being forwarded to the Office of Initial Patent Examination for processing with a filing date of October 11, 2002, using the 9 sheets of replacement drawings filed on January 7, 2003, including figures 10A to 10D which correct applicant's labeling error.

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at 703-305-0309.

E. Shirene Willis for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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AUG 0 9 2007

OFFICE OF PETITIONS

In re Patent No. 6,772,053	:	
Application No. 10/269,336	:	
Filed: October 11, 2002	:	ON PETITION
Issued: August 3, 2004	:	
Attorney Docket No. 017516-002810US	:	

This is a decision on the petition filed August 6, 2007 (originally submitted on July 26, 2005), 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**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to Petitions Examiner Liana Walsh at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Liana Walsh for
Frances Hicks
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Arthur D. Smith	: DECISION ON REQUEST FOR
Patent Number	: 7640608	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/269,347	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/11/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **456** 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 PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 6

STEPHEN B. DAVIS
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P.O. BOX 4000
PRINCETON, NJ 08543-4000

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MAY 1 9 2003

OFFICE OF PETITIONS

In re Application of :
Simon Crawford Bristow et al :
Application No. 10/269,358 :
Filed: October 11, 2002 :
Attorney Docket No. GY88-CON-2 :

ON PETITION

This is in response to the petition under 37 CFR 1.47(a), filed April 18, 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), the declaration submitted with the petition is not in compliance with 37 CFR 1.63 and 1.64. The declaration fails to set forth the citizenship of joint inventor Ronald Harland. Accordingly, a declaration in compliance with 37 CFR 1.63 and 1.64 is required. Note MPEP 409.03(a); MPEP 602, and MPEP 605.01.

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 South Clark Place
Arlington, VA 22202

By FAX: (703) 308-6916
ATTN: Office of Petitions

Telephone inquiries related to this decision should be directed to Irvin Dingle at (703) 306-5684.

Brian Hearn, for
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

Paper No. 8

STEPHEN B. DAVIS
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P.O. BOX 4000
PRINCETON, NJ 08543-4000

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JUL 0 3 2003

OFFICE OF PETITIONS

In re Application of :
Simon Crawford Bristow et al :
Application No. 10/269,358 :
Filed: October 11, 2002 :
Attorney Docket No. GY88-CON-2 :

ON PETITION

This is in response to the petition filed June 17, 2003, requesting reconsideration of a decision mailed May 19, 2003, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

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), the declaration is defective in that it has been amended. In this regard, the citizenship block for Ronald Harland has been amended. Since the declaration cannot be amended, a new declaration is required that is not amended, altered or changed in any manner after it has been signed. See MPEP 602.01.

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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 10

STEPHEN B. DAVIS
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P.O. BOX 4000
PRINCETON, NJ 08543-4000

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AUG 1 2 2003

OFFICE OF PETITIONS

In re Application of	:
Simon Crawford Bristow et al	:
Application No. 10/269,358	: DECISION GRANTING
Filed: October 11, 2002	:STATUS UNDER 37 CFR 1.47(a)
For: STAVUDINE POLYMORPHIC	:
FORM 1 PROCESS	:

This is in response to the petition filed July 29, 2003, requesting reconsideration of a decision mailed July 3, 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 Initial Patent Examination Unit.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Commissioner for Patents
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Alexandria, VA 22313-1450
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RONALD HARLAND
1 HARLOW COURT
YARDLEY, PA 19067

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AUG 1 2 2003

OFFICE OF PETITIONS

In re Application of
Simon Crawford Bristow; Philip Michael Cocks; Ronald Harland; Rajesh B. Gandhi
Application No. 10/269,358
Filed: October 11, 2002
For: STAVUDINE POLYMORPHIC FORM 1 PROCESS

Dear Mr. Harland:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (703) 306-5684. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Stephen B. Davis
Bristol-Myers Squibb Company
Patent Department
P.O. Box 4000
Princeton, NJ 08543-4000

OIPE JC169
MAY 2 6 2005
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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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In re Application of SHIBATA ET AL.
Appl. No.: 10/269,368
Filed: October 12, 2002
For: SURFACE ACOUSTIC WAVE DEVICE AND COMMUNICATION DEVICE

WITHDRAWAL FROM ISSUE
37 CFR 1.313

NOV 10 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.

Richard Seidel
Director
Patent Examining Technology Center 2800

KEATING & BENNETT LLP
Suite 312
10400 Eaton Place
Fairfax, VA 22030

UNITED STATES PATENT AND TRADEMARK OFFICE

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KEATING & BENNETT LLP
10400 EATON PLACE, SUITE 312
FAIRFAX, VA 22030

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JUN 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Osamu Shibata et al :
Application No. 10/269,368 :
Filed: October 12, 2002 :
Attorney Docket No. 36856.964

ON PETITION

This is a decision on the petition, filed June 6, 2005, which is being treated as a petition under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 26, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2834 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.

PATTON BOGGS
1660 LINCOLN ST
SUITE 2050
DENVER, CO 80264

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JAN 07 2005

OFFICE OF PETITIONS

In re Application of :
Robert A. Enyart :
Application No. 10/269,385 :
Filed: November 11, 2002 :
Attorney Docket Number: :
020519.0101PTUS :

ON PETITION

This is a decision on the Petition, filed December 6, 2004 (Certificate of Mailing dated December 2, 2004), requesting the application be accorded a filing date of November 11, 2002, including pages 74-118 of the specification.

The petition is **dismissed**.

The application was filed on November 11, 2002. However, on November 8, 2004, the Office of Initial Patent Examination mailed a Notice to File Corrected Application Papers, requiring a Substitute Specification, and noting that a filing date had been accorded the application, but that pages 74-118 of the specification appeared to have been omitted from the application.

In response, Petitioner files the instant petition wherein Petitioner avers that pages 74-118 of the specification were among 153 pages of specification originally filed with the application on November 11, 2003, 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, *inter alia*, 153 pages of specification on November 11, 2002.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of, *inter alia*, 153 pages of specification on November 11, 2002. However, Petitioner has failed to include a copy of pages 74-118 of the specification with the instant petition.

A review of the correspondence filed with the instant petition reveal that a Substitute Specification of 210 pages; a Marked-up Specification of 153 pages; the Declaration of Carl L. Forest; a Transmittal Form; the instant petition; a copy of Applicant's return-receipt postcard; a Fee Transmittal Form, and a copy of the Notice to File Corrected Application Papers were all received in the Office with the instant petition on December 6, 2004.

Applicant must file copies of pages 74-118 of the specification that were originally filed with the application on October 11, 2002. The Marked-up Specification, which apparently includes marked-up copies of pages 74-118 of the specification putatively filed with the application, are not copies of the specification as-filed.

The application file will be retained in the Office of petitions for a period of TWO MONTHS to await the filing of copies of pages 74-118 of the specification that were originally filed with the application on October 11, 2002.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney Advisor
Office of Petitions

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RECV

Paper No.

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JAN 10 2005
Patton Boggs, LLP

PATTON BOGGS
1660 LINCOLN ST
SUITE 2050
DENVER, CO 80264

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JAN 07 2005
OFFICE OF PETITIONS

In re Application of
Robert A. Enyart
Application No. 10/269,385
Filed: November 11, 2002
Attorney Docket Number:
020519.0101PTUS

ON PETITION

This is a decision on the Petition, filed December 6, 2004 (Certificate of Mailing dated December 2, 2004), requesting the application be accorded a filing date of November 11, 2002, including pages 74-118 of the specification.

The petition is **dismissed**.

The application was filed on November 11, 2002. However, on November 8, 2004, the Office of Initial Patent Examination mailed a Notice to File Corrected Application Papers, requiring a Substitute Specification, and noting that a filing date had been accorded the application, but that pages 74-118 of the specification appeared to have been omitted from the application.

In response, Petitioner files the instant petition wherein Petitioner avers that pages 74-118 of the specification were among 153 pages of specification originally filed with the application on November 11, 2003, 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, *inter alia*, 153 pages of specification on November 11, 2002.

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Best Available Copy

A review of the correspondence filed with the instant petition reveal that a Substitute Specification of 210 pages; a Marked-up Specification of 153 pages; the Declaration of Carl L. Forest; a Transmittal Form; the instant petition; a copy of Applicant's return-receipt postcard; a Fee Transmittal Form, and a copy of the Notice to File Corrected Application Papers were all received in the Office with the instant petition on December 6, 2004.

Applicant must file copies of pages 74-118 of the specification that were originally filed with the application on October 11, 2002. The Marked-up Specification, which apparently includes marked-up copies of pages 74-118 of the specification putatively filed with the application, are not copies of the specification as-filed.

The application file will be retained in the Office of petitions for a period of TWO MONTHS to await the filing of copies of pages 74-118 of the specification that were originally filed with the application on October 11, 2002.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney Advisor
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
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SUITE 2050
DENVER, CO 80265

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OCT 20 2005

OFFICE OF PETITIONS

In re Application of	:	
Robert A. Enyart	:	
Application No. 10/269,385	:	
Filed: November 11, 2002	:	ON PETITION
Title of Invention:	:	
Attorney Docket No.:	:	
020519.0101PTUS	:	

This is a decision in response to the Request for Reconsideration of Petition Under 37 CFR 1.182, filed February 16, 2005, requesting the application be accorded a filing date of November 11, 2002, including pages 74-118 of the specification.

This Petition is hereby **granted**.

The application was filed on November 11, 2002. On November 8, 2004, the Office of Initial Patent Examination mailed a Notice to File Corrected Application Papers (hereinafter "Notice"), requiring a substitute specification and noting that a filing date had been accorded the application, but pages 74-118 of the specification appeared to have been omitted from the application.

Applicant responded with a petition on December 6, 2004, wherein Applicant averred that pages 74-118 of the specification were among 153 pages of specification originally filed with the application on November 11, 2003, and were received by this Office as evidenced by the return-receipt postcard. In support of this assertion, Applicant provided a copy of a return-receipt postcard acknowledging receipt of, *inter alia*, 153 pages of specification on November 11, 2003. A review of the return-receipt postcard revealed that Applicant was correct. The postcard acknowledged receipt of, *inter alia*, 153 pages of specification in the above-identified application by this Office on November 11, 2003. However, Applicant did not provide copies of pages 74-118 of the specification as originally filed with the application on November 11, 2003.

The petition was dismissed in a Decision mailed January 7, 2005. Applicant was required to file copies of pages 74-118 of the specification as originally filed with the application on November 11, 2003.

With the instant petition Applicant has provided copies of pages 74-118 of the specification as originally filed with the application on November 11, 2003.

Accordingly, the petition is granted.

The copy of pages 74-118 of the specification, filed with the instant Request for Reconsideration on February 16, 2005, will be used for examination purposes.

Because reconsideration of the petition was not necessitated by an error on the part of this Office, the petition fee has not been refunded.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of November 11, 2003, and an indication that pages 74-118 of the specification was included among 153 pages of specification filed on November 11, 2003, using pages 74-118 of the specification filed with the instant Request for Reconsideration on February 16, 2005.

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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PATTON BOGGS
1660 LINCOLN STREET
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OFFICE OF PETITIONS

In re Application of	:	
Robert A. Enyart	:	
Application No. 10/269,385	:	CORRECTED DECISION
Filed: October 11, 2002	:	ON PETITION
Title of Invention:	:	
Attorney Docket No.:	:	
020519.0101PTUS	:	

This is a decision in response to the Request for Reconsideration of Petition Under 37 CFR 1.182, filed February 16, 2005, requesting the application be accorded a filing date of November 11, 2002, including pages 74-118 of the specification.

This Petition is hereby **granted**.

The application was filed on October 11, 2002. On November 8, 2004, the Office of Initial Patent Examination mailed a Notice to File Corrected Application Papers (hereinafter "Notice"), requiring a substitute specification and noting that a filing date had been accorded the application, but pages 74-118 of the specification appeared to have been omitted from the application.

Applicant responded with a petition on December 6, 2004, wherein Applicant averred that pages 74-118 of the specification were among 153 pages of specification originally filed with the application on November 11, 2003, and were received by this Office as evidenced by the return-receipt postcard. In support of this assertion, Applicant provided a copy of a return-receipt postcard acknowledging receipt of, *inter alia*, 153 pages of specification on November 11, 2003. A review of the return-receipt postcard revealed that Applicant was correct. The postcard acknowledged receipt of, *inter alia*, 153 pages of specification in the above-identified application by this Office on November 11, 2003. However, Applicant did not provide copies of pages 74-118 of the specification as originally filed with the application on November 11, 2003.

The petition was dismissed in a Decision mailed January 7, 2005. Applicant was required to file copies of pages 74-118 of the specification as originally filed with the application on November 11, 2003.

With the instant petition Applicant has provided copies of pages 74-118 of the specification as originally filed with the application on October 11, 2002.

Accordingly, the petition is granted.

The copy of pages 74-118 of the specification, filed with the instant Request for Reconsideration on February 16, 2005, will be used for examination purposes.

Because reconsideration of the petition was not necessitated by an error on the part of this Office, the petition fee has not been refunded.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of November 11, 2003, and an indication that pages 74-118 of the specification was included among 153 pages of specification filed on October 11, 2002, using pages 74-118 of the specification filed with the instant Request for Reconsideration on February 16, 2005.

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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OFFICE OF PETITIONS

In re Application of	:	
Robert A. Enyart	:	SECOND
Application No. 10/269,385	:	CORRECTED DECISION
Filed: October 11, 2002	:	ON PETITION
Title of Invention:	:	
Attorney Docket No.:	:	
020519.0101PTUS	:	

This is a decision in response to the Request for Reconsideration of Petition Under 37 CFR 1.182, filed February 16, 2005, requesting the application be accorded a filing date of October 11, 2002, including pages 74-118 of the specification.

This Petition is hereby **granted**.

The application was filed on October 11, 2002. On November 8, 2004, the Office of Initial Patent Examination mailed a Notice to File Corrected Application Papers (hereinafter "Notice"), requiring a substitute specification and noting that a filing date had been accorded the application, but pages 74-118 of the specification appeared to have been omitted from the application.

Applicant responded with a petition on December 6, 2004, wherein Applicant averred that pages 74-118 of the specification were among 153 pages of specification originally filed with the application on October 11, 2002, and were received by this Office as evidenced by the return-receipt postcard. In support of this assertion, Applicant provided a copy of a return-receipt postcard acknowledging receipt of, *inter alia*, 153 pages of specification on October 11, 2002. A review of the return-receipt postcard revealed that Applicant was correct. The postcard acknowledged receipt of, *inter alia*, 153 pages of specification in the above-identified application by this Office on November 11, 2003. However, Applicant did not provide copies of pages 74-118 of the specification as originally filed with the application on October 11, 2002.

The petition was dismissed in a Decision mailed January 7, 2005. Applicant was required to file copies of pages 74-118 of the specification as originally filed with the application on October 11, 2002.

With the instant petition Applicant has provided copies of pages 74-118 of the specification as originally filed with the application on October 11, 2002.

Accordingly, the petition is granted.

The copy of pages 74-118 of the specification, filed with the instant Request for Reconsideration on February 16, 2005, will be used for examination purposes.

Because reconsideration of the petition was not necessitated by an error on the part of this Office, the petition fee has not been refunded.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of October 11, 2002, and an indication that pages 74-118 of the specification was included among 153 pages of specification filed on October 11, 2002, using pages 74-118 of the specification filed with the instant Request for Reconsideration on February 16, 2005.

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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CIPA VISION CORPORATION
PATENT DEPARTMENT
11460 JOHNS CREEK PARKWAY
DULUTH, GA 30097-1556

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OFFICE OF PETITIONS

In re Application of	:	
Wayne Front March, et al.	:	
Application No. 10/269,394	:	ON PETITION
Filed: October 11, 2002	:	
Attorney Docket No. CL/V-31552N2/C1	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 18, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed March 8, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 9, 2004.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34, the signature of Jian S. Zhou appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Telephone inquiries concerning this decision should be directed to 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

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OFFICE OF PETITIONS

In re Application of	:	
Westenskow et al.	:	DECISION ON PETITION
Application No. 10/269,422	:	TO WITHDRAW
Filed: October, 11, 2002	:	FROM RECORD
Attorney Docket No. 3040.3	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 2, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to practitioners associated with Baker & Associates PLLC was revoked by the assignee of the patent application on July 7, 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 the undersigned at 571-272- 6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: THORPE NORTH & WESTERN, LLP.
P.O. BOX 1219
SANDY UT 84091-1219

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THORPE NORTH & WESTERN, LLP.
P.O. Box 1219
SANDY, UT 84091-1219

Mail Date: 05/11/2010

Applicant	: Dwayne Westenskow	: DECISION ON REQUEST FOR
Patent Number	: 7693697	: RECALCULATION of PATENT
Issue Date	: 04/06/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/269,422	: OF WYETH
Filed	: 10/11/2002	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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AUG 18 2009

OFFICE OF PETITIONS

In re Application of :
Dwayne WESTENSKOW, et al :
Application No. 10/269,423 : NOTICE
Filed: October 11, 2002 :
Attorney Docket No. 00846-U3280.CIP :

This is in response to the paper filed June 22, 2009, under 37 CFR 1.27(c) seeking status as a small entity.

The statement claiming small entity status of June 22, 2009, has been made of record and small entity status has been accorded.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

The application file is being referred to Technology Center AU 3735 for further processing.

Thurman K. Page
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Dwayne WESTENSKOW, et al	:	
Application No. 10/269,423	:	DECISION ON PETITION
Filed: October 11, 2002	:	
Docket No. 00846-U3280.CIP	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 22, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 11, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 12, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 3735 for appropriate action by the Examiner in the normal course of business.

Thurman K. Page
Petitions Examiner
Office of Petitions

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THORPE NORTH & WESTERN, LLP.
P.O. Box 1219
SANDY, UT 84091-1219

Mail Date: 04/20/2010

Applicant	: Dwayne Westenskow	: DECISION ON REQUEST FOR
Patent Number	: 7654966	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/269,423	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/11/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2156** 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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Alexandria, VA 22313-1450
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THE PATENT LAW OFFICE OF
FRANK P. BECKING
P.O. BOX 800
PALO ALTO CA 94302

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MAR 3 1 2009

OFFICE OF PETITIONS

Patent No. 6,798,560	:	
Application No. 10/269,478	:	
Filed: October 11, 2002	:	ON PETITION
Issued: September 28, 2004	:	
Attorney Docket No. EXAJ-004	:	

This is a decision on the petition under 37 CFR 1.378(c), filed December 1, 2008, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued September 28, 2004. The last day of the grace period for paying the 3.5-year maintenance fee was September 28, 2008. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this 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.

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. Petitioner should note that a change of correspondence address would not affect the fee address. Therefore, if petitioner desires to receive future correspondence, which **may** be mailed regarding maintenance fees for the above-identified patent, the "fee address" and/or "customer number" forms should be submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: CHRISTOPHER M. AUBUCHON
1066 METRO CIRCLE
PALO ALTO, CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Charles C. Valauskas
Baniak, Pine & Gannon
Suite 1200
150 N. Wacker Drive
Chicago, IL 60606

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In re Application of :
Jill Portman, et. al. :
Application No. 10/269,490 : ON PETITION
Filed: October 11, 2002 :
Attorney Docket No. 5120/12 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 20, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed December 5, 2003, which set a shortened statutory period for reply of three (3) months. A three (3) months extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned after midnight June 5, 2004.

In response, petitioner submitted with the instant petition $665 for the petition to revive fee, a Request for Continued Examination (RCE), and the RCE filing fee of $385.

The petition is **GRANTED**.

The application file is being forwarded to Technology Center Art Unit 3727 for processing the Request for Continued Examination under 37 CFR 1.114, and for further review of the amendment filed June 4, 2004.

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

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Pillsbury Winthrop LLP
Intellectual Property Group
Suite 200
11682 El Camino Real
San Diego, CA 92130

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OCT 2 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Cusi et al.	:	PETITION UNDER
Application No. 10/269,501	:	37 CFR 1.78(a)(3)
Filed: October 10, 2002	:	DISMISSED AS MOOT
Attorney Docket No. 009848-0290198	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 22, 2004, to accept an unintentionally delayed claim for the benefit of prior application no. 09/264,551.

The petition is **dismissed as moot**.

Office policy provides that, if an applicant includes a benefit in the application but not in the manner specified by 37 CFR 1.78(a) (e.g, if the claim is included in an oath or declaration or the application transmittal letter) within the time period set forth in 37 CFR 1.78(a), the Office will not require a petition under 37 CFR 1.78(a) and the surcharge under 37 FR 1.17(t) to correct the claim if the information regarding the claim was recognized by the Office as shown by its inclusion on the filing receipt. **Of course, the applicant must still submit the claim in the manner specified in 37 CFR 1.78(a)(2) and (5) (i.e., by an amendment in the first sentence of the specification or in an application data sheet) to have a proper claim.** If the claim is included elsewhere in the application and not recognized by the Office as shown by its absence on the filing receipt, the Office will require a petition and the surcharge to correct the claim

In the instant case, 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 transmittal letter filed with the above-identified application. A review of the original filing receipt indicates the Office recognized the original claim for priority.

Since the petition is dismissed as moot, the $1,330 fee will be refunded to petitioner's deposit account.

This decision should not be construed as a determination that petitioner is actually entitled to the benefit of the filing date of the prior-filed application, but is only a determination that the Office will allow petitioner to file an untimely claim for priority via amendment or supplemental ADS. The examiner will, in due course, consider any priority claims and determine the extent to which the application is entitled to an earlier filing date.

Petitioner should note that the benefit claim under 35 USC 120 to PCT application no. PCT/EP98/03050 present in the first sentence of the specification fails to comply with the requirements imposed by 37 CFR 1.78(a)(2). Specifically, the relationship of the present application (i.e. "continuation," "divisional," a "continuation in part") to the PCT application is not included.

It is also noted that applicant has not claimed benefit to PCT/EP92/01014 under 35 USC 120. European applications, EP91107527.3 and EP 91107647.9 have a filing date more than 12

months before the filing date of U.S. application 07/965,246. Pursuant to 35 USC 119(a), a claim for priority under 35 USC 119(a)-(d) cannot be based on the European applications, since they were filed more than 12 months before U.S. application 07/965,246.

Applicant may wish to consider filing a petition under 37 CFR 1.78 to properly claim benefit under 36 USC 120 and 365(c) to the PCT applications.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Pearson
Director
Office of Petitions

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ON PETITION

In re Patent No. 6,910,651	:	
Issue Date: June 28, 2005	:	
Application No. 10/269,504	:	
Filed: October 11, 2002	:	
Attorney Docket No. HEALEY02-02	:	

This is a decision on the petition under 37 CFR 1.377, filed August 31, 2009, to accept and record a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

The above-identified patent issued on June 28, 2005. Accordingly, the first maintenance fee could have been paid from June 30, 2008 to December 30, 2008 or with a surcharge from December 31, 2008 to June 28, 2009.

Petitioner asserts that a maintenance fee payment was paid on June 26, 2009, using a certificate of deposit dated June 26, 2009. However, on July 27, 2009, a Notice of Patent Expiration was received. Petitioner argues that, since the maintenance fee was timely submitted, the Notice of Patent Expiration should be withdrawn.

In submitting maintenance fees and any necessary surcharges, identification of the patents for which maintenance fees are being paid must include a patent number **and** an application number, see 37 CFR 1.366(c).

A review of the record confirms that a maintenance fee was paid under 37 CFR 1.362(e) on June 30, 2009, using a Certificate of Mailing under 37 CFR 1.8 dated June 26, 2009. However, the payment failed to include the proper identification of the patent for which the payment was intended as required by 37 CFR 1.366. The maintenance fee for the identified patent had already been paid. As a consequence, the $555 payment was not accepted and on July 10, 2009, a Treasury Check in the amount of $555 was refunded to applicant.

It is noted that the present communication does not include authorization to charge the previously refunded maintenance fee and surcharge. Therefore, the petition cannot be granted until the $490 maintenance fee and $65 surcharge are received.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

By Internet: EFS-Web[1]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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In re Application of	:	
Freel et al.	:	
Application No. 10/269,538	:	ON PETITION
Filed: October 11, 2002	:	
Attorney Docket No. 18153.20	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 11, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

A Notice of Acceptance of Power of Attorney is enclosed.

This matter is being referred to Technology Center 1700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney (2 pages)

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
10/269,538	10/11/2002	Barry Freel	18153.20

CONFIRMATION NO. 5898

OC000000022289870

OC000000022289870

34313
ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
4 PARK PLAZA
SUITE 1600
IRVINE, CA 92614-2558

Date Mailed: 02/01/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/09/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

LIANA S WALSH
OP (571) 272-3206

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/269,538	10/11/2002	Barry Freel	TBD

CONFIRMATION NO. 5898

OC000000022289850

OC000000022289850

26565
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Date Mailed: 02/01/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/09/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

LIANA S WALSH
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NEW ATTORNEY/AGENT COPY

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 23313-1450
WWW.USPTO.GOV

Mailed:

DWW
Paper No. _____

In re Application of
Matyjaszewski et al.
Serial No.: 10/269,556
Filed: October 11, 2002

DECISION ON PETITION UNDER *37 CFR 1.48(b)*

For: PROCESS FOR MONOMER SEQUENCE CONTROL IN POLYMERIZATIONS

This is a decision on the request for CORRECTION OF INVENTORSIP UNDER 37 C.F.R. 1.48(b) (herein treated as PETITION TO DELETE CORRECTLY NAMED PERSON WHO IS NOT INVENTOR OF INVENTION NOW BEING CLAIMED) filed August 30, 2004 to correct inventorship under 37 CFR 1.48(b) by deleting the name of Tomislav Pintauer from the list of inventors of the instant application.

It is noted that the applicant has met the requirements of (1) a petition including a statement identifying each named inventor who is being deleted and acknowledging that the inventor's invention is no longer being claimed in the application; and (2) the fee set forth in 37 CFR 1.17(i).

The petition is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

David W. Wu
Supervisory Patent Examiner
Art Unit 1713
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