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WINSTEAD SECHREST & MINICK P.C.
5400 RENAISSANCE TOWER
1201 ELM STREET
DALLAS, TX 75270

COPY MAILED

DEC 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Zvi Yaniv et al	:	
Application No. 10/269,577	:	ON PETITION
Filed: October 11, 2002	:	
Attorney Docket No. 12179-P106US	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 12, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed January 4, 2005, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The amendment submitted on June 1, 2005, did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed June 20, 2005. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. A two (2) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on June 5, 2005.

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

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

This matter is being referred to Technology Center AU 2822.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

cc: KELLY K. KORDZIK
WINSTEAD SECHREST & MINICK P.C.
P.O. BOX 50784
DALLAS, TX 75201

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ANDREW S. MCCONNELL
BOYLE, FREDRICKSON, NEWHOLM, STEIN & GRATZ, S.C.
SUITE 1030
250 E. WISCONSIN AVENUE
MILWAUKEE, WI 53202

COPY MAILED

DEC 06 2004

OFFICE OF PETITIONS

In re Application of	:	
Sheldon P. Carr, et al.	:	
Application No. 10/269,592	:	ON PETITION
Filed: October 11, 2002	:	
Attorney Docket No. 698.003	:	

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 Technology Center 3700, Art Unit 3742.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

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

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MAR 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Norquist and Katz :
Application No. 10/269,640 :
Filed: October 10, 2002 : DECISION ON PETITION
Attorney Docket No. 020366-079500 :
Invention: SYSTEMS AND METHODS FOR :
EVALUATING BUSINESS CASES

This is in response to the petition under 37 CFR 1.47(a), filed January 23, 2003 (certificate of mailing dated January 17, 2003.

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

A "Notice to File Missing Parts of Non-Provisional Application" ("Notice") was mailed to petitioner on November 21, 2002, indicating that petitioner neglected to file a proper oath or declaration in compliance with 37 CFR 1.63. The Notice also advised petitioner that a $130.00 surcharge was also due because a proper oath or declaration was not timely filed. The Notice set forth a period of reply of two months from the mailing date of the Notice and indicated that extensions of time for reply were available pursuant to 37 CFR 1.136(a).

In response, petitioner filed the instant petition and remitted the surcharge. Petitioner also filed a declaration executed by inventor Katz.

Petitioner has established that, despite being presented with a complete copy of the application papers, inventor Norquist has refused to join in the prosecution of the application. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

The statement under 37 CFR 3.73(b), filed January 23, 2003, is noted and made of record.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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JEFFREY D. HSI
FISH & RICHARDSON P.C.
225 FRANKLIN STREET
BOSTON, MA 02110-2804

COPY MAILED
JUN 29 2004
OFFICE OF PETITIONS

In re Application of :
Bjorn Nilsson, et al. :
Application No. 10/269,670 :
Filed: October 11, 2002 :
Attorney Docket No. 13425-080002 :

ON PETITION

This is a decision on the petition, filed June 29, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 15, 2004, using a Certificate of Mailing under 37 CFR 1.8 dated March 11, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1624 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

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JEFFREY D. HSI
FISH & RICHARDSON P.C.
225 FRANKLIN STREET
BOSTON, MA 02110-2804

COPY MAILED
JUN 29 2004
OFFICE OF PETITIONS

In re Application of :
Bjorn Nilsson, et al. :
Application No. 10/269,670 :
Filed: October 11, 2002 :
Attorney Docket No. 13425-080002 :

ON PETITION

This is a decision on the petition, filed June 29, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 15, 2004, using a Certificate of Mailing under 37 CFR 1.8 dated March 11, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1624 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Date : June 29, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Bjorn Nilsson, et al.
Application No. : 10/269,670
Filed : October 11, 2002

The above-identified application has been assigned Patent No. 6,759,401 and an issue date of July 6, 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 July 6, 2004:

> "All reference to Patent No. 6,759,401 to BJORN NILSSON, ET AL. of SWEDEN for CERTAIN ARYLALIPHATIC AND HETEROARYL-ALIPHATIC PIPERAZINYL PYRAZINES AND THEIR USE IN THE TREATMENT OF SEROTONIN-RELATED DISEASES appearing in the Official Gazette of July 6, 2004, should be deleted since no patent was granted."

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

cc: Geraldine Dozier, Crystal Park 3-441 (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 K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

Attorney's Docket No.: 13425-080002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Björn Nilsson et al.
Serial No. : 10/269,670
Filed : October 11, 2002
Title : CERTAIN ARYLALIPHATIC AND HETEROARYL-ALIPHATIC PIPERAZINYL PYRAZINES AND THEIR USE IN THE TREATMENT OF SEROTONIN-RELATED DISEASES

Art Unit : 1624
Examiner : Sudhaker B. Patel

RECEIVED
JUN 29 2004
OFFICE OF PETITIONS

Commissioner for Patents
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Alexandria, VA 22313-1450

PETITION TO WITHDRAW FROM ISSUE

Applicant hereby petitions under §1.313(c)(2) for the withdrawal of this application from issue to permit consideration of an Information Disclosure Statement filed in a continuing application. The issue fee was paid on March 11, 2004, and this application has been forwarded to the publication department and is scheduled to issue on July 6, 2004 as U.S. Patent 6,759,401.

A Request for Continued Examination, an Information Disclosure Statement, a form PTO-1449, and references listed on the form PTO-1449 are filed herewith. The request for continued examination is intended to continue this application on the grant of this petition.

Enclosed is a check for $130 in payment of the petition fee required by 1.17(i).

06/29/2004 AKELLEY 00000015 10269670
01 FC:1460 130.00 OP

CERTIFICATE OF DELIVERY BY HAND

I hereby certify that this correspondence is being delivered by hand on the date indicated below and is addressed to the U.S. Patent and Trademark Office, Office of Petitions,2011 South Clark Place, Arlington, VA 22202.

6/29/04
Date of Delivery

Signature

Jewel Smith
Typed or Printed Name of Person Signing Certificate

Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 28 June 2004

Anita L. Meiklejohn, Ph.D.
Reg. No. 35,283

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

20888218.doc

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APR 13 2005

ACCENTURE C/O MORRISON & FOERSTER
755 Page Mill Road
Palo Alto, CA 94304

In re application of:
Philip Joseph Rauen IV et al.
Application No. 10/269,683
Filed: October 11, 2002
For: CORPORATE CONTENT MANAGEMENT AND DELIVERY SYSTEM

: DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on June 14, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), the reason "transfer to new counsel" is not appropriate since it is not clear that the client initiated the transfer, or that the client knowingly or freely assents to the transfer to new counsel. A proper reason for withdrawal is enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 04/07/05

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STEPHEN DURANT
MORRISON AND FOERSTER, LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105

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SEP 07 2006

OFFICE OF PETITIONS

In re Application of	:	
Philip J. Rauen IV et al	:	
Application No. 10/269,683	:	DECISION ON PETITION
Filed: October 11, 2002	:	TO WITHDRAW
Attorney Docket No. 426882004400	:	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 29, 2005.

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

A review of the file record indicates that the power of attorney to Stephen Durant has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record remains unchanged, which is the address indicated below.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: Banner & Witcoff, LTD.
Attorneys for Client No. 005222
10 S. Wacker Drive, 30th Floor
Chicago, IL 60606

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STEVE B. STUDDARD
1012 N VA AVENUE, #8
ATLANTA, GA 30306

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JUL 03 2007

OFFICE OF PETITIONS

In re Application of	:
Steve B. Studdard	:
Application No. 10/269,692	: DECISION GRANTING PETITION
Filed: October 12, 2002	: UNDER 37 CFR 1.313(c)(2)
For: RECLINING EXERCISE CHAIR	:

This is a decision on the petition, filed January 16, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 21, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Petitioner is advised that each piece of correspondence directed to a specific subject matter, such as a petition to withdraw from issue, an amendment, letter, or transmittal, must bear a signature in accordance with 37 CFR 1.4(d).

Additionally, petitioner is reminded that the Office must be informed of a current address at all times to ensure the timely receipt of all mailed communications.

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

This matter is being referred to Technology Center AU 3764 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of a paper filed in the form of an amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\july10\269692.wpd

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/12/2008

TO SPE OF : ART UNIT 3700 (3764)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,276,018

Attn: Lori Amerson

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

Please complete this form and forward within **7** days to: **Scanning customer Support**

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location **7580** - Tel. No. 308-8309

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.

Ok to enter dwg fig. 5 as req. in C of C?

Ernest C. White, LIE - 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments: _____ok to

enter_____

_____

_____

_____

_____

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JAN 10 2006

OFFICE OF PETITIONS

COATS & BENNETT, PLLC
P O BOX 5
RALEIGH, NC 27602

In re Application of	:	
Stevens et al.	:	
Application No. 10/269,708	:	ON PETITION
Filed: October 11, 2002	:	
Attorney Docket No. 5142-002	:	

This is a decision on the petition under 37 CFR 1.181, filed June 6, 2005, to withdraw the holding of abandonment.

The petition is **granted.**

Facts:

Petitioner filed a proper power of attorney and a proper request to change the correspondence address of record on April 16, 2004.

For unknown reasons, April 16, 2004 papers were not processed and the address was not changed.

On August 20, 2004, the Office sent a final Office action to the address of record, not to the address listed on the April 16, 2004 papers.

A reply was not received in response to the August 20, 2004 Office action. As a result, the application was deemed abandoned as of midnight on November 20, 2004.

A Notice of Abandonment was mailed on May 4, 2005.

The instant petition states the Office action was never received.

Analysis:

A review of the facts indicates the Office sent the correspondence to an incorrect address, and as a result, the Office action was not received. Therefore, the petition is granted.

The final Office action mailed August 20, 2004, and the Notice of Abandonment mailed on May 4, 2005, are hereby vacated and the holding of abandonment withdrawn.

Technology Center 3635 will be informed of the instant decision and will consider the papers filed with the petition in due course.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Lorri W. Cooper, Esq.
JONES, DAY, REAVIS & POGUE
North Point
901 Lakeside Avenue
Cleveland OH 44114

In re Application of	:	
BRIAN W. BROLLIER	:	
Application No. 10/269,712	:	DECISION ON REQUEST TO
Filed: October 14, 2002	:	WITHDRAW AS ATTORNEY
For: SEMI-COVERT RFID ENABLED CONTAINERS	:	

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on July 22, 2003.

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

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All of the attorneys/agents listed are granted the request for withdraw.

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

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

cc: Kenneth R. Schaefer, Esq.
International Paper Company
1422 Long Meadow Road
Tuxedo, NY 10987

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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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Stephen J. Leblanc
Quine Intellectual Property Law Group, P.C.
2033 Clement Ave. #200
Alameda, CA 94501

Mail Date: 06/03/2010

Applicant	: James R. Piper	: DECISION ON REQUEST FOR
Patent Number	: 7636636	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/269,723	: 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 **361** 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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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
PO BOX 1450, ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

MAY - 7 2003

#4

EZRA SUTTON, ESQ.
EZRA SUTTON, P.A.
PLAZA 9
900 ROUTE 9
WOODBRIDGE NJ 07095

In re Application of	:
Edward L. Tobinick	:
Serial No.: 10/269,745	: PETITION TO MAKE SPECIAL
Filed: October 7, 2002	:
Attorney Docket No.: TOBINICK3.0-015	:

This is in response to applicants' petition filed October 28, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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OFFICE OF PETITIONS

In re Application of :
Ajit Dubhashi :
Application No. 10/269,751 : ON PETITION
Filed: October 10, 2002 :
Attorney Docket No. IR-1904 (2-3209) :

This is a decision on the petition, filed December 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).

Petitioner is advised that the issue fee paid on October 28, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2838 for further processing of the request for continued examination under 37 CFR 1.114 filed December 15, 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/11/07

TO SPE OF : ART UNIT 1657

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/269772** Patent No.: **7022505**

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: _____

SPE

1657
Art Unit

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BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

MAILED

MAR 13 2009

OFFICE OF PETITIONS

In re Application :
Oliner :
Application No. 10/269,805 : PATENT TERM ADJUSTMENT
Filed: October 10, 2002 :
Dkt. No.: 04-881-X ::

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed February 5, 2009. This matter is being properly treated as a timely filed application for patent term adjustment pursuant to 37 CFR 1.705(b).

The Determination of Patent Term Adjustment under 35 USC 154(b) was mailed November 6, 2008. Applicant argues that the application is entitled to an adjustment of 1367 days, including adjustment pursuant to 37 CFR 1.702(b).

Applicant contests the adjustment insofar as it relates to the Office's failure to issue the patent within three years of the filing date of the application pursuant to 37 CFR 1.703(b) in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

To the extent that this 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 ordinarily 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, 37 CFR 1.703(b). It is noted that at the time of this decision, the patent has not issued.

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

With respect to the over 3 year calculation, rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

Receipt is hereby acknowledged of the required patent term adjustment application fee of $200.00.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries

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

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Date: 06/29/09

Patent No. : 7521053 B2
Ser. No. : 10/269,805
Inventor(s) : OLINER, JONATHAN DANIEL
Issued : 04/21/09
Title : **ANGIOPOIETIN-2 SPECIFIC BINDING AGENTS**
Docket No. : **04-881-X**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

By fax: (571) 273-0025
ATTN: Office of Petitions

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

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703) 308-9390 #112

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

LMN

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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
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In re Patent No. 7,521,053	: DECISION ON APPLICATION FOR
Issued: April 21, 2009	: PATENT TERM ADJUSTMENT and
Application No. 10/269,805	: NOTICE OF INTENT TO ISSUE
Filed: October 10, 2002	: CERTIFICATE OF CORRECTION
Dkt. No.: 04-881-X	:

This is a decision on the petition filed on June 20, 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 1367 days.

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

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on October 11, 2005 and ends on April 9, 2008, the day before the RCE was filed, and not April 10, 2008, 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 912 days not 913 days. Given the overlap of 53 days and the applicant delay of 216 days, the correct patent term adjustment is 1,366, not 1,367 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 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 1,366 days.

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,521,053 B2

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

INVENTOR(S) : Oliner

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 697 days

Delete the phrase "by 697 days" and insert – by 1,366 days--

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ALAN D KIRSCH
PO BOX 1625
IDAHO FALLS ID 83415-3899

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In re Application	:
Douglas W. Akers	:
Application No. 10/269,807	: DECISION ON APPLICATION
Filed: October 10, 2002	: FOR PATENT TERM ADJUSTMENT
Atty Docket No. B-124D1	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT, INCLUDING REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE, PURSUANT TO 37 CFR §1.705" filed August 18, 2005. Applicant asserts that the initial determination of patent term adjustment under 35 U.S.C. 154(b) of four hundred thirteen (413) days should be six hundred sixty-six (666) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **six hundred sixty-six (666) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 6, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is four hundred thirteen (413) days. On August 18, 2005, Applicant timely[1] submitted the application for patent term adjustment, asserting that the patent term adjustment should be six hundred sixty-six (666) days.

---

[1] Applicants paid the issue fee on September 26, 2005.

Applicant states that the application is not subject to a Terminal Disclaimer.

The Office initially determined a patent term adjustment of four hundred thirteen (413) days based on an adjustment for PTO delay of four hundred thirteen (413) days pursuant to 35 U.S.C. 154(b)(1)(C)(iii) and 37 C.F.R. § 1.703(e), reduced by zero days of applicant delay.

The adjustment of four hundred thirteen (413) days has been found to be incorrect. A review of the application file reveals that a Notice of Appeal was filed on August 5, 2003, not April 14, 2004. On April 14, 2004, applicant filed a "Request for Reinstatement of Appeal", after the Examiner re-opened prosecution by mailing a non-final Office action on February 25, 2004. A decision by the Board of Patent Appeals and Interferences, in favor of applicant, was mailed on May 31, 2005. 37 C.F.R. § 1.704(e) states that the period of adjustment is the number of days "beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C 134 and § 1.191 and ending on the date a final decision in favor of the Applicant by the Board of Patent Appeals and Interferences...." Accordingly, the PTO should have determined an adjustment of six hundred sixty-six (666) days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **six hundred sixty-six (666) days** (666 days of PTO delay, reduced by 0 days of applicant delay), subject to any terminal disclaimer.

Receipt of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

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

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

Kery A Fries

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

Day : Wednesday

PALM INTRANET

Date: 5/3/2006
Time: 13:28:38

PTA Calculations for Application: 10/269807			
Application Filing Date:	10/10/2002	PTO Delay (PTO):	413
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	666
PTO Delay Adjustment:	253		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
77	05/03/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	253		
68	07/06/2005	MAIL NOTICE OF ALLOWANCE			
67	06/30/2005	ISSUE REVISION COMPLETED			
66	06/30/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
65	06/30/2005	NOTICE OF ALLOWABILITY			
64	06/30/2005	CASE DOCKETED TO EXAMINER IN GAU			
63	05/31/2005	MAIL BPAI DECISION ON APPEAL - REVERSED	413		37
62	05/31/2005	BPAI DECISION - EXAMINER REVERSED			
61	04/12/2005	MISCELLANEOUS INCOMING LETTER			
60	04/12/2005	CONFIRMATION OF HEARING BY APPELLANT			
59	03/25/2005	NOTIFICATION OF APPEAL HEARING			
53	03/07/2005	DOCKETING NOTICE MAILED TO APPELLANT			
52	03/05/2005	ASSIGNMENT OF APPEAL NUMBER			
51	01/19/2005	APPEAL AWAITING BPAI DOCKETING			
50	10/07/2004	REQUEST FOR ORAL HEARING			
49	09/14/2004	MAIL EXAMINER'S ANSWER			
48	09/10/2004	EXAMINER'S ANSWER TO APPEAL BRIEF			
47	08/12/2004	DATE FORWARDED TO EXAMINER			
46	08/02/2004	SUPPLEMENTAL APPEAL BRIEF			
45	08/11/2004	DATE FORWARDED TO EXAMINER			
44	08/02/2004	APPEAL BRIEF FILED			
41	08/02/2004	WORKFLOW INCOMING AMENDMENT IFW			
40	07/13/2004	NOTICE -- DEFECTIVE APPEAL BRIEF			
39	04/30/2004	DATE FORWARDED TO EXAMINER			
38.1	04/14/2004	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			

38	04/14/2004	APPEAL BRIEF FILED			
37	04/14/2004	NOTICE OF APPEAL FILED			
36	12/16/2003	MISCELLANEOUS INCOMING LETTER			
35	02/13/2004	MISCELLANEOUS INCOMING LETTER			
34	02/25/2004	MAIL NOTICE OF WITHDRAWN ACTION			
33	02/25/2004	MAIL NON-FINAL REJECTION			
32	02/23/2004	NON-FINAL REJECTION			
31	02/23/2004	LETTER WITHDRAWING / VACATING OFFICE ACTION			
29	01/13/2004	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
28	01/31/2004	DATE FORWARDED TO EXAMINER			
27	01/13/2004	REPLY BRIEF FILED			
26	01/13/2004	MISCELLANEOUS INCOMING LETTER			
25	01/16/2004	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
24	01/15/2004	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
23	01/13/2004	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
22	12/01/2003	MAIL EXAMINER'S ANSWER			
21	11/28/2003	EXAMINER'S ANSWER TO APPEAL BRIEF			
20	10/21/2003	DATE FORWARDED TO EXAMINER			
19	10/03/2003	APPEAL BRIEF FILED			
18	08/05/2003	NOTICE OF APPEAL FILED			
17	07/22/2003	MAIL ADVISORY ACTION (PTOL - 303)			
16	07/22/2003	ADVISORY ACTION (PTOL-303)			
15	07/17/2003	DATE FORWARDED TO EXAMINER			
14	07/16/2003	AMENDMENT AFTER FINAL REJECTION			
13	06/16/2003	MAIL FINAL REJECTION (PTOL - 326)			
12	06/13/2003	FINAL REJECTION			
11	04/17/2003	DATE FORWARDED TO EXAMINER			
10	04/03/2003	RESPONSE AFTER NON-FINAL ACTION			
9	01/03/2003	MAIL NON-FINAL REJECTION			
8	12/30/2002	NON-FINAL REJECTION			
7	10/10/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	12/12/2002	CASE DOCKETED TO EXAMINER IN GAU			
5	11/26/2002	APPLICATION DISPATCHED FROM OIPE			

4	11/25/2002	APPLICATION IS NOW COMPLETE			
3	11/12/2002	CLEARED BY L&R (LARS)			
2	10/22/2002	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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OFFICE OF PETITIONS

In re Application of Gutenev :
Application No. 10/269,810 : Decision on Petition
Filing Date: October 11, 2002 :
Attorney Docket No. 4927/003 :

This is a decision on the petition filed March 14, 2007, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

This application was held abandoned for failure to timely respond to the Notice of Allowance and the Notice of Allowability mailed November 3, 2005, within the three (3) month statutory period for reply. Accordingly, a reply was due on or before February 3, 2006. A Notice of Abandonment was mailed on April 13, 2006.

Petitioner contends the Notice of Allowance and Notice of Allowability were never received. Petitioner has submitted a copy of the file jacket and the docket report for the instant application.

In the absence of any irregularity in the mailing of the Office action, there is a strong presumption that the Office action was properly mailed and delivered to the address of record. In order to overcome this presumption, a petition alleging non-receipt of an Office action must:

(1) include a statement from practitioner stating that the Office action was not received,
(2) attest that a search of the file jacket has been made,
(3) attest that a search of all relevant docket records has been made,
(4) include a copy of the docket record where the Office action would have been entered had it been received, and
(5) include any additional information which may be required by the Commissioner.

See MPEP 711.03(c)(I).

As to item (2) above, any request for reconsideration should explicitly state a search of the file jacket has been made.

Although the petition discusses the Notices mailed November 3, 2005, the petition does not discuss the Notice of Abandonment mailed on April 13, 2006. The petition fails to explain the delay from April 13, 2006, to March 14, 2007, in filing a petition to withdraw the holding of

abandonment. A petition to withdraw the holding of abandonment should normally be filed within two months of the Notice of Abandonment. *See* 37 CFR 1.181(f).

If petitioner contends the Notice of Abandonment was not received, petitioner should provide evidence to support a conclusion it is more likely than not that both papers were lost by the USPS. Any request for reconsideration should discuss any other petitions to withdraw the holding of abandonment based on non-receipt of papers from the Office filed within the last two years.

The Office notes neither the papers mailed November 3, 2005, nor the Notice of Abandonment mailed April 13, 2006, were returned undelivered by the USPS.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." 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
P.O. Box 1450
Alexandria, VA 22313-1450

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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NEW YORK, NY 10016-0601

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OFFICE OF PETITIONS

In re Application of Gutenev :
Application No. 10/269,810 : Decision on Petition
Filing Date: October 11, 2002 :
Attorney Docket No. 4927/003 :

This is a decision on the petition filed September 10, 2007, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **granted**.

This application was held abandoned for failure to timely respond to the Notice of Allowance and the Notice of Allowability mailed November 3, 2005, within the three (3) month statutory period for reply. Accordingly, a reply was due on or before February 3, 2006. A Notice of Abandonment was mailed on April 13, 2006.

Petitioner requests the Office withdraw the holding of abandonment. In support of the request, petitioner has providing evidence sufficient to establish non-receipt of the Notice of Allowance and Notice of Allowability.

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

The Office of Publications will be informed of the instant decision and the application will be issued as a patent in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed: JUN 11 2003

Paper No. 5

In re Application of
John Arthur Cooper et al : DECISION

Serial No. 10/269,816 : ON

Filed: October 11, 2002 : PETITION

For: APPARATUS AND METHODS FOR REMOVING MERCURY FROM FLUID STREAMS

This is in response to the petition filed February 20, 2003 requesting that the above-identified application be granted Special Status under 37 CFR 1.102(a)(b) and (c).

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

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Glenn C. Brown
777 N. W. Wall Street, Suite 308
Bend, Oregon 97701

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In re Application of John L. Pulek, et al. Serial Number: 10/269,820 Filed: October 11, 2002 For: GRADED PARTICLE-SIZE RETENTION FILTER MEDIUM FOR FLUID FILTRATION UNIT WITH IMPROVED EDGE SEAL	: : : : : : : :	PETITION UNDER MPEP 708.02 VIII

This is in response to the Petition to Make Special filed June 5, 2003, requesting that the above-identified application be granted Special Status under section 708.02 VIII of the MPEP and 37 CFR 1.102(d). The fee set forth in 37 CFR 1.17(h) has been paid.

The criteria set forth in section 708.02 VIII of the MPEP and 37 CRF 1.102(d) have been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

R. Thomas Payne
CUNO Incorporated
400 Research Parkway, P.O. Box 1018
Meriden, CT 06450-1018

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Date Mailed : 3-13-06

Patent No.: 6,979,111
Patent Issued : December 27, 2005
Inventor(s) : Puleo Sr., et. al.
Title: FIBER OPTIC BASED LIGHT ORNAMENT
Docket No.: NTTREE 3. 0 - 004

Re: Request for Certificate of Correction

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

The alleged error in col. 5, line 30 is printed in accordance with the record.

In view of the foregoing, your request in this matter is hereby denied. However, further consideration will be given upon receipt of a request for reconsideration directed to Decisions & Certificates of Correction Branch.

A certificate of correction will issue to correct the remaining errors noted in your request.

Eva James
For Cecelia B. Newman
Certificate of Correction Branch
(703) 308-9390 ext. 124 or ext. 102

Robert B. Cohen
Lerner, David, Littenberg, Krumholz
& Mentlik, LLP
600 South Avenue West
Westfield, New Jersey 07090

ej

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

10269822

Paper No.:

DATE :

TO SPE OF : ART UNIT 1625

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

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

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

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

Note your decision on the appropriated box.

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

Comments:

SPE: [signature] 1625 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

In re Patent No. 6801052
Issue Date: October 5,2004
Application No. 10269830
Filed: October 11,2002
Attorney Docket No. LEOPP006

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

This is a decision on the electronic petition, filed April 6,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 6,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,801,052	2004-10-05	10/269,830	2002-10-11	LEOPP006

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	/Quon Hom/	Date (YYYY-MM-DD)	2010-04-06
Name	Quon Hom	Registration Number	61928

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND OR 97204

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OCT 01 2007

OFFICE OF PETITIONS

In re Application of	:	
Gilbert, Barrie	:	
Application No. 10/269,837	:	ON PETITION
Filed: October 10, 2002	:	
Attorney Docket No. 1482-155	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 24, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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.

This matter is being referred to Technology Center 2800 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
Gregory Jantsch	:	
Application No. 10/269,851	:	DECISION GRANTING PETITION
Filed: October 9, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 13543-010001	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 22, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 19, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2876 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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P.O. Box 1450
Alexandria, VA 22313-1450
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OLIFF & BERRIDGE, PLC
P.O. BOX19928
ALEXANDRIA VA 22320

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Toyonori Sasaki	:	
Application No. 10/269,885	:	
Filed: October 15, 2002	:	
Attorney Docket No. 103007.03	:	

This is a decision on the petition, filed April 22, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on February 10, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2863 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 01-06

Paper No: __

VIERRA MAGEN MARCUS
HARMON & DENIRO LLP
685 MARKET STREET, SUITE 540
SAN FRANCISCO CA 94105

COPY MAILED

JAN 13 2006

OFFICE OF PETITIONS

In re Application of	:	
Haberhehl	:	
Application No. 10/269,906	:	DECISION ON PETITION
Filing Date: 11 October, 2002	:	
Attorney Docket No. 14525	:	

This is a decision on the petition filed on 23 December, 2005, to revive the instant application 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) **DISMISSED**.

NOTES: Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.137(b)[1] (as to unintentional delay) must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The

[1] Effective December 1, 1997, the provisions of 37 C.F.R. §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 C.F.R. §1.137(b). a grantable petition filed under the provisions of 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 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 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. 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 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 29 September, 2004, with reply due absent extension of time on or before 29 December, 2004;

- Petitioner filed an after-final amendment (with a request and fee for extension of time) on 3 February, 2005, however, in a Communication mailed on 3 May, 2005, the Examiner, considering the amendment to be a bona fide attempt to reply but citing to MPEP §821.03, found that the amendment was improper in that it cancelled all claims to the previously elected invention "(an article") and addressed "claims not readable on the elected invention because they a[re] drawn to a method whereas the original claim[s] were drawn to an article," and the Examiner set a one-month/30-day (whichever was greater) period of response;

- Petitioner failed to reply to the 3 May, 2005, Communication;

- the Application went abandoned after midnight 3 June, 2005;

- the Office mailed a Notice of Abandonment on 6 December, 2005;

- Petitioner appears to have filed the instant petition with fee, a reply in the form of a Request for Continued Examination (RCE) under 37 C.F.R. §1.114, with fee and submission in the form of an amendment, and made a statement of unintentional delay.

An RCE is not a proper reply to a non-final Office action. Moreover, a review of the 29 September, 2004, and 3 May, 2005, Office actions in contrast to the amendment submitted as a submission indicates that the submission itself continues to address a method rather than an article.

Thus, Petitioner is NOT considered to have satisfied the requirements of the regulation.

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.

(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

A grantable petition under 37 C.F.R. §1.137(b) requires a petition, fee, statement of unintentional delay, reply, and a terminal disclaimer and fee if appropriate.

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[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.

[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.

As indicated above, the regulatory requirement of a reply has not been satisfied as of this writing.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[8]

By mail: Commissioner for Patents[9]
P.O. Box 1450
Alexandria, VA 22313-1450

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

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

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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[8] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[9] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 04-06

Paper No: __

VIERRA MAGEN MARCUS
HARMON & DENIRO LLP
685 MARKET STREET, SUITE 540
SAN FRANCISCO CA 94105

COPY MAILED

APR 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Haberhehl	:	
Application No. 10/269,906	:	DECISION ON PETITION
Filing Date: 11 October, 2002	:	
Attorney Docket No. 14525	:	

This is a decision on the petition filed on 14 March, 2006, to revive the instant application 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 29 September, 2004, with reply due absent extension of time on or before 29 December, 2004;

- Petitioner filed an after-final amendment (with a request and fee for extension of time) on 3 February, 2005, however, in a Communication mailed on 3 May, 2005, the Examiner, considering the amendment to be a *bona fide* attempt to reply but citing to MPEP §821.03, found that the amendment was improper in that it cancelled all claims to the previously elected invention "(an article") and addressed "claims not readable on the elected invention because they a[re] drawn to a method whereas the original claim[s] were drawn to an article," and the Examiner set a one-month/30-day (whichever was

greater) period of response;

- Petitioner failed to reply to the 3 May, 2005, Communication;
- the Application went abandoned after midnight 3 June, 2005;
- the Office mailed a Notice of Abandonment on 6 December, 2005;
- Petitioner filed the original petition with fee, a reply in the form of a Request for Continued Examination (RCE) under 37 C.F.R. §1.114, with fee and submission in the form of an amendment, and made a statement of unintentional delay, however, the petition was dismissed because the RCE was not a proper reply to a non-final Office action–moreover, review of the 29 September, 2004, and 3 May, 2005, Office actions in contrast to the amendment submitted as a submission indicates that the submission itself continued to address a method rather than an article;
- with the filing of the instant petition and a reply in the form of an amendment, Petitioner appears to have cured those deficiencies.

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,

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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).

Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

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

Allegations as to Unintentional Delay

A grantable petition under 37 C.F.R. §1.137(b) requires a petition, fee, statement of unintentional delay, reply, and a terminal disclaimer and fee if appropriate.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to 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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[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.

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

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FEB 11 2008

OFFICE OF PETITIONS

In re Application of	:	
HABER, Tony P. et al.	:	
Application No. 10/269,907	:	DECISION ON PETITION
Filed: October 11, 2002	:	TO WITHDRAW
Attorney Docket No. **4606P005**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 13, 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 Paul Mendonsa on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **TONY P. HABER**
17392 NW BLACTAIL DRIVE
PORTLAND, OR 97229

cc: **GOODWIN PROCTER LLP**
599 LEXINGTON AVE.
NEW YORK, NY 10022

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THE ECLIPSE GROUP
10453 RAINTREE LANE
NORTHRIDGE, CA 91326

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JUL 14 2005

OFFICE OF PETITIONS

In re Application of :
Clifford Yamamoto :
Application No. 10/269,914 : DECISION GRANTING
Filed: October 10, 2002 : PETITION
Attorney Docket No. ST02006USU:

This is a decision on the petition, filed 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). This is also a decision on the petition under 37 CFR 1.313, to withdraw the application from issue after payment of the issue fee.

The petition under 37 CFR 1.137(b)GRANTED.

The petition under 37 CFR 1.313 is DISMISSED as Moot.

Petitioner states that the instant 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 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 October 20, 2005, accompanies this decision on petition.

As to the petition under 37 CFR 1.313(c)(2):

The petition under 37 CFR 1.313 is unnecessary and is therefore, dismissed as moot.

Any inquiries concerning this decision may 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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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Paper No. 14

MAILED

NOV 26 2004

Technology Center 2100

Sierra Patent Group, LTD
P.O. Box 6149
Stateline, NV 89449

In re Application of: Hauck, et al. Application No. 10/269,915 Attorney Docket No. APPL-P2817DVA Filed: October 11, 2002 For: METHOD AND APPARATUS FOR PREVENTING LOOPS IN A FULL-DUPLEX BUS	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT, *UNDER 37 CFR §1.181*

This is a decision on the petition to withdraw the holding of abandonment, treated under 37 CFR §1.181, filed on October 28, 2004.

The instant application became abandoned for failure to timely respond to the Notice of Allowance and Issue Fee Due, mailed November 24, 2003. A Notice of Abandonment was mailed on April 7, 2004. However, the original Notice of Allowance was inadvertently mailed to an incorrect address, and a new (corrected) Notice of Allowance and Issue Fee Due was mailed to Applicant on February 9, 2004, resetting the three-month date for payment of the Issue Fee to May 10, 2004. The record indicates the Issue Fee was timely paid by Applicant on May 3, 2004.

In view of these facts, the abandonment of the application was clearly in error and is hereby **WITHDRAWN**.

Accordingly, the petition is **GRANTED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the holding of abandonment (restore the instant application to pending status), and to mail form PTO-90C (misc. Office communication), wherein the Examiner has now treated the Information Disclosure Statement, filed February 2, 2004. The application will then be forwarded to the Office of Patent Publication for allowance processing.

11/24/04

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
703-308-0885

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BANNER & WITCOFF , LTD
ATTORNEYS FOR CLIENT NUMBER 007412
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

MAILED

FEB 26 2010

OFFICE OF PETITIONS

In re Application of	:	
Nathaniel J. Thurston et al.	:	
Application No. 10/269,918	:	DECISION ON PETITION
Filed: October 11, 2002	:	
Attorney Docket No. 007412.00747	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 24, 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 March 10, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 11, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620 and (3) a proper statement of unintentional delay. Accordingly, the amendment 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.

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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on November 24, 2009 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 Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2425 for appropriate action by the Examiner in the normal course of business on the reply received November 24, 2009.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: William J. Allen
Banner & Witcoff, Ltd.
10 South Wacker Drive, Suite 3000
Chicago, IL 60606

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 5/15/06 **Paper No.:**

TO : **Supervisor, Art Unit** _____

SUBJECT : Certificate of Correction Request in Patent No.: 6,760,152

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

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

PLEASE COMPLETE THIS FORM AND RETURN WITH FILE, WITHIN 7 DAYS, TO CERTIFICATES OF CORRECTION BRANCH - PK 3-915/922 PALM LOCATION 7580 - TEL. 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.

☐ **YES** ☒ **NO**

☒ **Comments: The request for a Certificate of Correction with respect to the Patent Term Adjustment being changed from "154(b) bydays.days" to "154(b) by 0 days" is not approved.**

Mark Polutta
Office of Patent Legal Administration **Art Unit**

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Date Mailed : 11-3-06

Patent No.: 6,760,152
Patent Issued : July 6, 2004
Inventor(s): Daniel Ratoff, et. al.
Title: METHOD FOR INCREASING DYNAMIC RANGE OF ERBIUM DOPED FIBER AMPLIFIERS
Docket No.:

Re: Request for Certificate of Correction

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

The request for a Certificate of Correction with respect to the Patent Term Adjustment being changed from "154(b) bydays.days" to "154(b) by 0 days" is not approved.

In view of the foregoing, your request is hereby denied. However, further consideration will be given upon receipt of a request for reconsideration directed to Decisions & Certificates of Correction Branch.

Eva James
For Cecelia B. Newman
Certificate of Correction Branch
(703) 308-9390 ext. 124 or ext. 102

Teitelbaum & MacLean
Registered Patent Agents Limited
1187 bank Street, Suite 201
Ottawa, Ontario, Canada K1S 3X7

ej

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ddj
Paper Number _____

Mailed: JAN 10 2004

In re application of:
Panayotis C. Andricacos et al.
Serial No.: 10/269,956
Filed: October 15, 2002
For: METHOD FOR ELECTROPLATING ON RESISTIVE SUBSTRATES

DECISION
PETITION

This is in response to the PEITITION UNDED CFR 1.84 REGARDING THE SUBMISSION OF COLOR DRAWINGS AS FIGURES IN A PATENT APPLICATION filed October 4, 2004.

The petition includes (1) the fee as required by 37 CFR 1.17(H) *[note - the fee has been charged to applicant's deposit account as authorized]*, (2) three sets of the color drawings, and (3) an amendment to the specification which includes the language set forth in 37 CFR 1.84(a)(2)(iv).

A review of the application record indicates that all of the requirements for acceptance of color photographs have been met.

The Petition is **GRANTED**.

Deborah Jones
Supervisory Patent Examiner
Technology Center 1700

CONNOLLY BOVE LODGE & HUTZ LLP
1990 M Street, N.W. Suite 800
Washington, DC 20036-3425

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

In re Application of:
NAMBU, KYOJIRO et al.
Serial No. 10/269,960
Filed: Oct. 15, 2002
Docket: 229156US2S
Title: METHOD AND APPARATUS FOR CALCULATING INDEX CONCERNING LOCAL BLOOD FLOW CIRCULATIONS

6/18/09

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed June 12, 2009 under 37 CFR 1.181 requesting withdrawal of the finality of the last Office action mailed May 14, 2009.

The petition is granted.

It is noted that the record does show that in the amendment filed on March 10, 2009, the applicant did not amend any claims. There was no change in scope of all pending claims 1-12. Therefore, the rejection of claims 1-12 under 35 U.S.C. 101 was not necessitated by the amendment filed on March 10, 2009.

As such, the finality of the Office action issued on May 14, 2009 is premature and thus the finality of the action is hereby withdrawn. The Office action mailed on May 14, 2009 will be designated as non-final Office action. The period to respond to the Office action of May 14, 2009 remains unchanged. Since the finality is being withdrawn, any amendment responding to the Office action will be treated as a 37 CFR § 1.111 amendment. In finding petitioner's points of argument persuasive, the requested relief is granted.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3737 for further processing. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Donald T. Hajec, Director
Technology Center 3700

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OCT 2 2 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Shinichiro Shiratake :
Application No. 10/269,968 :
Filed: October 15, 2002 :
Attorney Docket No. 229438US2S

This is a decision on the petition, filed October 21, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 9, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be forwarded to Technology Center AU 2818 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

[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 : October 22, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 10/269,968

Applicant(s) : Shinichiro Shiratake
Application No. : 10/269,968
Filed : October 15, 2002

The above-identified application has been assigned Patent No. 6,809,950 and an issue date of October 26, 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 : October 26, 2004.

"All reference to Patent No. 6,809,950 to Shinichiro Shiratake of Japan for SEMICONDUCTOR INTEGRATED CIRCUIT DRIVE appearing in the Official Gazette of October 26, 2004 should be deleted since no patent was granted."

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

cc: Paul Harrison, 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, PK3-910

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JUN 30 2006
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Group 3700

PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

In re Application of
Edward Bucktron, et al
Appl. No. 10/269,986
Filed: March 27, 2001
For: METHOD AND ARRANGEMENT FOR ACHIEVING AN ADJUSTED ENGINE SETTING UTILIZING ENGINE OUTPUT AND/OR FUEL CONSUMPTION

DECISION ON PETITION UNDER 37 CFR I.181

This is a decision on Applicant's Petition under 37CFR 1.181 filed on January 13, 2006 to withdraw the finality of the Office Action mailed May 03, 2005 after the filing of an RCE. No fee is required for the petition. A renewed request was filed June 21, 2006 and has been considered together with the January 16, 2006 petition.

The petition is dismissed.

Petitioner cites page 4 of the final rejection, which cites MPEP 706.07(b) for the propriety of when to and when not to make a first action final rejection with respect to an RCE. However, Applicant filed the petition January 13, 2006, which is over two months from the mailing date of the final rejection (May 03, 2005) and is, therefore, dismissed in accordance with 37 CFR 1.181(f) for not being timely. 37 CFR 1.181(f) also states "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." A response was due August 03, 2005 to avoid the application becoming abandoned. While applicant filed an Amendment After Final having Certificate of Mailing certifying the response was filed by first class mail on August 03, 2005, the response was not placed into the electronic file until August 05, 2005. The Examiner did not reply with an Advisory action, but the Notice of Abandonment mailed December 14, 2005 states in Item 7 that the response does not place the application in condition for allowance. In addition, the petition was filed on January 13, 2006, which is well beyond the six-month statutory period.

Accordingly, the petition is moot as it is untimely and the application stands in an abandoned status as reflected in the Notice of Abandonment mailed December 14, 2005. A petition to revive is required.

PETITION DISMISSED.

Any questions regarding this decision should be directed to Special Program Examiner Allan N. Shoap at 571-272-4514.

Karen M. Young
Director
Technology Center 3700

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DEC 27 2006

PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

In re Application of:
Bucktron, Edward
Serial No. 10/269,986
Filed: OCTOBER 15, 2002
Docket: 34843
Title: METHOD AND ARRANGEMENT FOR ACHIEVING AN ADJUSTED ENGINE SETTING UTILIZING ENGINE OUTPUT AND/OR FUEL CONSUMPTION

DECISION ON RENEWED PETITION UNDER 37 CFR § 1.181

This is a decision on the renewed petition filed on August 23, 2006 under 37 CFR § 1.181 requesting reversal of the previous decision dismissing the petition of January 13, 2006. Petitioner further requests the present petition to be treated as a petition to revive an unintentional abandonment under 37 CFR § 1.137 if the 37 CFR § 1.181 petition is denied.

The renewed petition is denied.

Initially, it is pointed out that the petition requests two different forms of relief. This is impermissible under 37 CFR § 1.4(c). This decision will only address the timeliness of the original petition.

Petitioner asserts that the letter filed on January 13, 2006, and the follow-up letter filed on June 21, 2006, were not intended to be petitions. However, they were filed requesting withdraw of the abandonment of the applicant and thereby construed as petitions under 37 CFR § 1.181.

Petitioner asserts in the renewed petition that dismissing the petition is egregious since the record indicates two egregious errors have already been made by the USPTO. These being (1) an improper finality imposed within the Office action mailed May 3, 2005, and (2) failure to take any action in response to the timely submitted Amendment mailed-dated August 3, 2005 and thus claiming abandonment by the Applicant. Basically, petitioner asserts the USPTO erred by imposing an improper finality, and then apparently waited, not acting at all upon the application, for several months to reach a point that the application was abandoned.

37 CFR § 1.181(f) states:

> The mere filing of a petition will not stay any period for reply that may by running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

As noted above, the final rejection in this application was dated May 03, 2005, more than two months prior to the filing of the construed petitions. Therefore, the instant petition is untimely.

Petitioner contends that the impropriety of the final rejection based on prior art not of record after an RCE is egregious error and seeks relief based on this and that the USPTO failed to take action on the timely amendment filed August 05, 2005. The fact remains that this amendment was in the status of an amendment after final with the clock continuing to tick towards the six-month statutory period. Applicant should have sought supervisory review of the final rejection within the two month period described in 37 CFR § 1.181(f). Applicant chose not to pursue this right under the regulation perhaps in the hope that the amendment would eventually be entered. However, this did not occur and petitioner cannot now, more than eight months after the date of the final rejection, question the propriety of the Examiner having made the action final.

In summary, the renewed petition fails to point out any justification for holding that the originally construed petitions, which complained of an improper final rejection but were filed more than eight months after the date of the final rejection, could be considered to have been timely filed under 37 CFR § 1.181(f) for consideration of the propriety of the final rejection. Petitioner is again reminded that this decision does not address the abandoned status of the application because to do so would contravene the requirement of 37 CFR § 1.4(c), which the undersigned is without authority to waive.

Petitioner is entitled to file a request for reconsideration, and any such request must be filed within two months of the date of this decision. See 37 CFR § 1.181 (f). Alternatively, the petition may precede under 37 CFR § 1.137. Either the request for reconsideration or the petition to revive should be directed to the Office of the Deputy Commissioner for Patent Examination Policy at Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. See MPEP 1002.02.

PETITION DENIED.

Any inquiry regarding this decision should be directed to Allan N. Shoap, Special Program Examiner, at (571) 272-4514.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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CLEVELAND, OH 44114-3108

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JUN 14 2007

OFFICE OF PETITIONS

In re Application of
Edward Bucktron, et. al.
Application No. 10/269,986
Filed: October 15, 2002
Attorney Docket No. 34843

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on January 4, 2007, to revive the above-identified application.

The application became abandoned for failure to file a proper reply to the final Office action mailed May 3, 2005. A Notice of Abandonment was mailed on December 14, 2005.

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

This application file is being referred to Technology Center Art Unit 3747, for review of the amendment filed on January 13, 2006.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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LUMEN INTELLECTUAL PROPERTY SERVICES, INC.
2345 YALE STREET
2ND FLOOR
PALO ALTO, CA 94306

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AUG 2 6 2003

OFFICE OF PETITIONS

In re Application of	:
Mitchell J. Novack	:DECISION GRANTING FILING
Application No. 10/270,026	:DATE OF OCTOBER 10, 2002
Filed: October 10, 2002	:
Attorney Docket No. TSP-106	:

This is a decision on the petition filed May 6, 2003, requesting that the above-identified application be accorded a filing date of October 10, 2002, rather than the presently accorded date of October 11, 2002. The petition is properly treated as a petition under 37 CFR 1.10(c).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on October 10, 2002 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EU101265188US showing a stamped date of October 10, 2002 by the Willow Glen Station, San Jose, CA USPS. The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal."

In view of the USPS receipt stamp of October 10, 2002 appearing on the same Express Mail label number as shown on the transmittal for the instant application, it is concluded that the application was deposited as "Express Mail" with the USPS on October 10, 2002.

The petition is **granted**.

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

Telephone inquiries specific to this decision on petition should be directed to Frances Hicks at (703) 305-8680.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Ron Jacobs
45 Cabot Avenue
Suite 110
Santa Clara, CA 95051

UNITED STATES 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. 6854767
Issue Date: February 15,2005
Application No. 10270033
Filed: October 11,2002
Attorney Docket No. MITS:038

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

This is a decision on the electronic petition, filed November 5,2009 ,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 November 5,2009 . 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)
6854767	2005-02-15	10270033	2002-10-11	ID034109-JLR

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	/DJCushing/	Date (YYYY-MM-DD)	2009-11-05
Name	David J. Cushing	Registration Number	28703

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
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

UR
PAPER NO. 3

FEB 18 2003

In re Application of
Michael D. Max et al.
Serial No. 10/270,054
Filed: October 15, 2002
For: HYDRATE-BASED DECONTAMINATION OF TOXIC GASES

DECISION ON PETITION UNDER M.P.E.P. 708.02(XI)

This is in response to the petition filed January 09, 2003, requesting that the above-identified application be granted Special Status under Sections 37 CFR 102(c) and 708.02 (XI) of the MPEP. The petition fee under 37 CFR 1.17(h) has been authorized.

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

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

Pillsbury Winthrop, LLP
P.O. Box 10500
McLean, VA 22102

United States Patent and Trademark Office

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Washington, D.C. 20231
www.uspto.gov

Paper No. 8

RADER, FISHMAN & GRAUER, PLLC
SUITE 501
1233 20TH STREET
WASHINGTON DC 20036

COPY MAILED

MAY 1 5 2003

OFFICE OF PETITIONS

In re Application of
Yukio Koizumi et al
Application No. 10/270,069
Filed: October 15, 2002
Attorney Docket No. ION-9004/DIV

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 6, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/420,410, filed October 19, 1999, set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

---

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

> filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on October 15, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

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

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

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

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

This application is being forwarded to Technology Center Art Unit 1771 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed nonprovisional Application No. 09/420,410, filed October 19, 1999.

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
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAR 18 2004

STEPHEN B. MAEBIUS
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:
Rossi Edmund et al	:
Serial No.: 10/270,071	: WITHDRAWAL OF ATTORNEY
Filed: October 15, 2002	:
Attorney Docket No.: 042418-0110	:

This is in response to applicants' attorneys' request, filed February 26, 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, 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

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

MAR 18 2004

STEPHEN B. MAEBIUS
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:
Rossi Edmund et al	:
Serial No.: 10/270,073	: WITHDRAWAL OF ATTORNEY
Filed: October 15, 2002	:
Attorney Docket No.: 042418-0112	:

This is in response to applicants' attorneys' request, filed February 26, 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, 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

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P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 30 2005

MILLEN, WHITE, ZELANO & BRANIGAN, PC
2200 CLARENDON BLVD
SUITE 1400
ARLINGTON, VA 22201

In re Application of	:
Johannes Platzek et al	:
Serial No.: 10/270,080	: PETITION DECISION
Filed: October 15, 2002	:
Attorney Docket No.: SCH-1845	:

This is in response to the petition under 37 CFR 1.144, filed January 7, 2005, requesting withdrawal of an improper restriction requirement. The delay in acting on this petition is regretted.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on October 15, 2002, and contained claims 1-26.. In a first Office action, mailed December 24, 2003, the examiner rejected all of the claims under one or more of 35 U.S.C. 101 as non-statutory, 35 U.S.C. 112, second paragraph as indefinite, 35 U.S.C. 102(b) as anticipated over Sangwan et al or 35 U.S.C. 102(b) or 35 U.S.C. 103(a) as anticipated or obvious over applicants' admissions in the specification.

Applicants replied timely on June 25, 2004, by amending the specification and claims, adding claims 27-30, and responding to the examiner's rejections.

On August 20, 2004, the examiner mailed applicants a restriction requirement dividing the claims into 20 different groups (not reproduced here). The division into groups was based, at least in part, not on the basic or common ring structure of the compounds, but on variables attached to the basic or common ring structure. The examiner set forth appropriate reasoning for the requirement.

Applicants replied on September 21, 2004, electing Group XIV with traverse and citing M.P.E.P. 803.02 with regard to examination of Markush groups and that the entire claim set had already been examined and therefore restriction was not proper.

The examiner mailed a new Office action to applicants on December 16, 2004, maintaining the restriction requirement and replying to applicants' traversal. The examiner stated that restriction can be made at anytime during the prosecution of an application and that the compounds of the various groups are independent and distinct. The requirement was made Final. The examiner also rejected claim 16 under 35 U.S.C. 112, second paragraph, as indefinite.

Applicant then filed this petition on January 7, 2006.

DISCUSSION

Applicants' petition argues that the full scope of the claims was examined in the first Office action and to make a restriction in a second Office action against the examined claims is improper. Applicants submit that the amendments to the claims made in reply to the first Office action were for purposes of clarifying the claims and removing the rejections under 35 U.S.C. 112, second paragraph, and did not change the scope of the claims to any significant degree.

A review of the claims shows that the claims are directed to processes for making various compounds. For instance claim 1 is directed to the conversion of the compound of formula II into formula I; claim 2 is a process of making formula II from formula III; claim 3 is a process for making formula III from formula V; claim 4 is a process for making formula V from formula VIII; claim 5 is a process of making formula VIII from formula IX; and claim 6 is a process for making formula IX from starting material X. Claims 8-13 are to the individual compounds of the above formulas. Claims 15-16 and 20 are to species of formula I and claims 20-23 are to other intermediate compounds. The remaining claims are dependent on the above mentioned claims and provide a further limitations. Thus the claims, as written, present individual steps in an overall process for making formula I from starting material X, but are written as single individual reactions, not an overall process.

Thus it is seen that applicants claims are directed to various compounds and processes for making and using them. Restriction between such groups of compounds , especially where their structures are different is in many instances appropriate. However, here the compounds are related as a series of intermediate/final products as seen in claims 1-6 in particular. In such instances two way distinctness must be shown and the examiner has not done this. Further, since the examiner conducted an examination of all of the claims in the initial Office action, it must be presumed that the entire scope of the claims, including the overall reaction scheme and individual steps, was examined as shown by the rejections made therein. To then make a restriction requirement among examined claims without some significant amendments which would place a claim(s) beyond the scope of the originally examined claims is counterproductive of Office and applicants' time. Such was also not done here.

Applicants' arguments with respect to examination of Markush groups in accordance with M.P.E.P. 803.02 are not appropriate for the entire claim set. Each separate formula listed above is a separate compound or group of compounds forming a Markush group and would not require the examination of any other Markush group.

DECISION

The petition is **GRANTED**. **The Office action mailed December 16, 2004, is withdrawn as improper.**

The application will be forwarded to the examiner for consideration of claims within the scope of the originally examined invention. Applicants should disregard the Notice of Non-complaint Amendment mailed March 24, 2005, as it is also withdrawn, however the amendments to the claims filed March 16, 2005, will be considered in preparing a new Office action.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 703-308-3824 or by facsimile sent to the general Office facsimile number, 571-273-8300

Bruce M. Kisliuk
Director, Technology Center 1600

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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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Pharmaceutical Patent Attorneys, LLC
55 Madison Avenue
4th Floor
Morristown, NJ 07960-7397

COPY MAILED

JUL 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Yuren Chen et al.	:	
Application No. 10/270,098	:	DECISION ON PETITION
Filed: October 11, 2002	:	TO WITHDRAW
Attorney Docket No. Long Range	:	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 31, 2006.

The request is **APPROVED**.

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

The request was signed by Mark Pohl on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

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.

The application became abandoned for failure to timely respond to the Office action mailed January 5, 2007.

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: **Yuren Chen**
153-5 Shamping Street
Zhongshan District
Dalian, 116015
China

cc: **Long Range International**
426 Mountain Avenue
Berkeley Heights, NJ 07922-2540

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
10/270,098	10/11/2002	Yuren Chen	Long Range

CONFIRMATION NO. 5724

OC000000024805465

22925
PHARMACEUTICAL PATENT ATTORNEYS, LLC
55 MADISON AVENUE
4TH FLOOR
MORRISTOWN, NJ 07960-7397

Date Mailed: 07/13/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/31/2006.

- 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.

Jerri Williams

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

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
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6/30/03

Oliff and Berridge PLC
P O Box 19928
Alexandria VA 22320

Dear Applicant:

The Box PGPub replacement drawings for application number 10/270,130 received on 5/30/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

D. Durham

Signature of Reviewer, Office of Initial Patent Examination

10270153

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 72505

Paper No.: _____

TO SPE OF : ART UNIT 2861

SUBJECT : Request for Certificate of Correction on Patent No.: 6834932

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

ROCHAUN JOHNSON
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 119

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:

[signature] for 2861
SPE in patent — 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. 122704

David J. Greer
Ridout & Maybee LLP
Suite 2400
One Queen Street East
Toronto ON M5C 3B1 CA CANADA

JAN 13 2005

In re Application of:
CORREA *et al.*
Serial No.: 10/270,154
Filed: October 15, 2002
Attorney Docket No.: **31139-0016**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the communication filed October 26, 2004. The communication has been treated as a petition under 37 C.F.R. § 1.181, to withdraw the holding of abandonment of the above-identified application. No fee is required.

The petition is **dismissed**.

The application was held abandoned for failure to file a response to the Office action mailed on March 26, 2004. A Notice of Abandonment was mailed on October 15, 2004.

Petitioner asserts that a response was transmitted by facsimile to the U.S. Patent and Trademark Office (PTO) on June 24, 2004. To support this assertion, petitioner has submitted copies of an 8 page response and the report from petitioner's facsimile machine which acknowledges satisfactory facsimile transmission of 8 pages to the PTO on June 24, 2004.

A review of the application file record reveals that the above-identified response is not of record in the application file and cannot be located.

The failure to receive correspondence in the PTO that was timely deposited in the U.S. mail or transmitted by facsimile is addressed in 37 CFR § 1.8(b), and reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence: (1) informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware

> that the Office has no evidence of receipt of the correspondence; (2) supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and (3) includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending units report confirming transmission may be used to support this statement.

In this case, a review of the copy of the response reveals that the response was not transmitted in accordance with paragraph (a) of 37 CFR § 1.8. Specifically, the response did not include a certificate of transmission in accordance with 37 CFR § 1.8(a)(1)(ii) to establish timely filing under the provisions of 37 CFR 1.8(b). As such, the copy of the response submitted with the petition cannot be accepted as being timely filed. Accordingly, the petition is **dismissed**.

Should petitioner desire reconsideration, petitioner should supplement this petition with a showing providing the needed information as outlined above.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision.

Petitioner may wish to consider filing a petition under 37 CFR § 1.137(a) or (b) requesting that the application be revived.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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David J. Greer
Ridout & Maybee LLP
Suite 2400
One Queen Street East
Toronto ON M5C 3B1 CA CANADA

COPY MAILED
FEB 17 2005
OFFICE OF PETITIONS

In re Application of :
Correra & Correa :
Application No. 10/270,154 :
Filed: October 15, 2002 :
Attorney Docket No. 31139-0016

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed January 17, 2005, to revive the above-identified application.

The petition is **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 non-final Office action mailed March 26, 2004, which set a shortened statutory period for reply of two (3) months from its mailing date. No response was received within the allowable period, and the application became abandoned on June 27, 2004. A Notice of Abandonment was mailed on October 15, 2004.

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(1); (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 item (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]

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[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' 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 a response to the non-final Office action was timely transmitted via facsimile to the Office.

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 reasons petitioner's argument must necessarily fail are addressed below.

The procedures provided by 37 CFR 1.8 are meant to provide applicants with extra assurance when filing communications, excluding those provided by 37 CFR 1.8(a)(2), with the Office whether by mail or facsimile such that the communication filed will be noted as being received on the date it was mailed or transmitted rather than the date it is actually received by the Office. Affixing a certificate to the communication filed properly effects the protection of 37 CFR 1.8. To that end, 37 CFR 1.8(a)(1)(ii) provides that:

> [t]he correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

Although petitioner provided a transmission sheet noting that eight pages responsive to the non-final Office action were transmitted, the amendment allegedly transmitted did not have a certificate under 37 CFR 1.8. The amendment cannot, therefore, be noted as being received on the date it was allegedly transmitted, but must be noted as being received on the date it is actually received by the Office. The amendment is, therefore, untimely as it is not noted as being received with the statutory period set for reply by the non-final Office action. The delay in responding to the non-final Office action cannot, therefore, be considered unavoidable because

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[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.

the amendment would have been noted as having been timely received but for petitioner's failure to utilize the procedure set forth in 37 CFR 1.8. The petition is dismissed, accordingly.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1500.00 for a large entity and $750.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Deposit account 13-2400 will be charged $250.00 for the instant petition fee.

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 (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

UNITED STATES 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 J. Greer
Ridout & Maybee LLP
Suite 2400
One Queen Street East
Toronto ON M5C 3B1 CA CANADA

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MAR 1 8 2005

OFFICE OF PETITIONS

In re Application of

Correra & Correra

Application No. 10/270,154

Filed: October 15, 2002

Attorney Docket No. 31139-0016

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 24, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 26, 2004, which set a shortened statutory period for reply of three months from its mailing date. No extensions of time were obtained within the allowable period. Accordingly, the application became abandoned on June 27, 2004. A Notice of Abandonment was mailed on October 15, 2004. A petition under 37 CFR 1.137(a) was filed on January 17, 2005, and dismissed by a decision mailed February 17, 2005.

The amendment filed February 24, 2005, is noted and made of record.

Deposit account 13-2400 will be charged $750.00 for the instant petition fee.

The application is being forwarded to Technology Center 2800, GAU 2837 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

COPY MAILED

JUL 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Masao Kano et al	:	
Application No. 10/270,155	:	ON PETITION
Filed: October 15, 2002	:	
Attorney Docket No. 3877-13	:	

This is a decision on the petition, filed July 15, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 9, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2855 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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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAR – 8 2005

JACOBSON HOLMAN PLLC
400 SEVENTH STREET, NW
SUITE 600
WASHINGTON, DC 20004

In re Application of	:
Christian Langlois	:
Serial No.: 10/270,159	: PETITION DECISION
Filed: October 15, 2002	:
Attorney Docket No.: P63398	:

This is in response to the petition under 37 CFR 1.181, filed November 23, 2004, requesting withdrawal of the Final rejection. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed a non-Final Office action to applicant on May 4, 2004, setting a three month shortened statutory period for reply, which set forth two rejections of claim 1(the only active claim in the application) under 35 U.S.C. 103(a) over Aubert et al and Noda et al and also over Aubert et al in view of Giannola et al.. No other rejections were set forth; claims 2-22 were previously canceled Applicant filed a reply on August 4, 2004. The amendment made no change in claim 1, but added claims 23-48, and responded to the rejections of record.

The examiner mailed a Final Office action to applicant on November 4, 2004, in which claim 42 was withdrawn as non-elected by original presentation; new claims 32-38, 43-46 and 48 were rejected under 35 U.S.C. 112, first paragraph, for lack of written description; new claims 39-40 were rejected under 35 U.S.C. 112, second paragraph, as indefinite; claim 1 and new claims 23-38, 41 and 43-48 were rejected under 35 U.S.C. 103(a) as unpatentable over Aubert et al and Noda et al in view of Doyen et al; claim 1 and new claims 23-38, 41 and 43-48 were also rejected under 35 U.S.C. 103(a) as unpatentable over Aubert et al in view of Giannola et al and Doyen et al; new claims 39-40 were rejected as unpatentable under 35 U.S.C. 103(a) over Aubert et al and Noda et al or Giannola et al in view of Doyen et al and Akiyama et al.

It is properly noted by applicant that claim 1 was not amended, but was subject to two different new rejections not previously of record. Thus the rejection of claim 1 was not necessitated by applicant's amendment (although the rejection of other claims, all of which are new, was necessitated by applicant's amendment). In view of this the action was improperly designated as a Final Office action. The Office action will not, however, be withdrawn, only the finality thereof.

The petition is **GRANTED.**

The Office action mailed November 4, 2004, is hereby redesignated a non-Final Office action. Applicant remains under obligation to respond thereto within the time period set therein or as may be extended under 37 CFR 1.136(a).

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

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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gm

Mailed : 6-14-07

In re Application of	:	DECISION
Palmbad et al.	:	DENYING
Serial No. 10/270,163	:	PETITION
Filed: October 15, 2002	:	
For: A PROCESS FOR SEALING OF A JOINT	:	

This is a decision on the May 2, 2007 "Combined Petition to Withdraw Erroneous Holding of Abandonment or on the Alternative to Exercise Supervisory Authority under 37 CFR 1.181."

Applicant filed an appeal brief on October 23, 2006, which the examiner held to be non-compliant under 37 CFR 41.37, in a communication dated December 12, 2006, on the grounds that the brief included unentered evidence. A supplemental appeal brief was filed on January 9, 2007. The examiner held the supplemental brief to be non-compliant as well, again on the grounds that it included unentered evidence. Upon holding the supplemental brief non-compliant, the examiner dismissed the appeal and consequently abandoned the application in a communication dated April 11, 2007.

The instant petition was then timely filed on April 18, 2007 and is before the Director of Technology Center 1700 for consideration. The petition requests withdrawal of the abandonment, and either acceptance of the supplemental brief filed January 9, 2007, or alternatively acceptance of a second supplemental brief filed concurrently with the instant petition.

The petition is **DENIED** for the reasons below.

DECISION

The appeal brief filed October 23, 2006 included unentered evidence in the form of a list of 20 US Patents and Published Applications, which list was included in the "Appendix B: Evidence Appendix" section and referred to in the "VII. Argument" section of the brief. Upon the examiner's holding of non-compliance for this reason, the supplemental appeal brief was filed.

While the supplemental appeal brief of January 9, 2007 removed the list of patents and published applications from the evidence appendix section, it bodily incorporated the same list into the arguments section.

37 CFR 41.37(c)(ix) states:

> (ix) Evidence appendix . An appendix containing copies of any evidence submitted pursuant to § § 1.130, 1.131, or 1.132 of this title or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered in the record by the examiner. Reference to unentered evidence is not permitted **in the brief**. See § 41.33 for treatment of evidence submitted after appeal. This appendix may also include copies of the evidence relied upon by the examiner as to grounds of rejection to be reviewed on appeal.

The rules thus clearly proscribe reference to unentered evidence anywhere in the brief, not merely in the evidence appendix. The list of 20 US Patents and Published Applications, which applicant's petition neglects to mention, constitutes unentered evidence, whether the list is presented in the appendix or arguments sections. The only evidence previously presented was the Ohwaki et al. article, reference to which was not objected to by the examiner. That some evidence was entered and considered does not give applicant license to refer to other, unentered evidence, regardless of its nature. Thus the examiner was correct in holding the supplemental brief to be non-compliant with 37 CFR 41.37(c)(ix).

Applicant argues that even assuming that the second brief were non-compliant, they should be provided with another opportunity to submit a corrected brief until the six month period set by the Notification of Non-Compliant Appeal Brief of December 12, 2006 expires.

However, 37 CFR 41.37(d) states:

> If a brief is filed which does not comply with all the requirements of paragraph (c) of this section, appellant will be notified of the reasons for non-compliance and given a time period within which to file an amended brief. If appellant does not file an amended brief within the set time period, or files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed.

See also MPEP 1205.03. The rules thus stipulate that filing an amended brief which fails to overcome the previously noted reasons for non-compliance will result in dismissal of the appeal. As the amended (supplemental) brief of January 9, 2007 did not overcome all the reasons for non-compliance stated in the notification, the examiner was correct in dismissing the appeal. As no claims stood allowed at the time of dismissal, the examiner was likewise correct in holding the application to be abandoned (MPEP 1215.04). The applicant may petition to revive the application as in other cases of abandonment, and to reinstate the appeal.

As the examiner was correct in holding the supplemental brief to be non-compliant and correct in holding the appeal dismissed, the instant petition is **DENIED.**

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

STEVENS, DAVIS, MILLER & MOSHER, L.L.P.
Suite 850
1615 L Street, N.W.
Washington DC 20036

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.
10/270,163	10/15/2002	Ulf Palmblad	TPP 31467	5004

7590 10/31/2008
STEVENS, DAVIS, MILLER & MOSHER, L.L.P.
Suite 850
1615 L Street, N.W.
Washington, DC 20036

EXAMINER
GOFF II, JOHN L

ART UNIT	PAPER NUMBER
1733	

MAIL DATE	DELIVERY MODE
10/31/2008	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
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Alexandria, VA 22313-1450
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gm

Mailed: 10-31-08	:	
In re Application of	:	DECISION
Palmbad et al.	:	DENYING
Serial No. 10/270,163	:	PETITION
Filed: October 15, 2002	:	
For: A PROCESS FOR SEALING OF A JOINT	:	

This is a decision on the July 13, 2007 "Renewed Petition to Withdraw Holding of Abandonment and Reinstate the Appeal or in the Alternative Petition to Revive an Unintentionally Abandoned Application and Reinstate the Appeal."

Applicant filed an appeal brief on October 23, 2006, which the examiner held to be non-compliant under 37 CFR 41.37, in a communication dated December 12, 2006, on the grounds that the brief included unentered evidence. A supplemental appeal brief was filed on January 9, 2007. The examiner held the supplemental brief to be non-compliant as well, again on the grounds that it included unentered evidence. Upon holding the supplemental brief non-compliant, the examiner dismissed the appeal and consequently abandoned the application in a communication dated April 11, 2007. Applicant petitioned against the examiner's holding of abandonment on May 2, 2007. The petition was denied in a decision dated June 14, 2007.

The instant petition was then timely filed on July 13, 2007 and is before the Director of Technology Center 1700 for consideration. The petition requests reconsideration of the June 14, 2007 decision and withdrawal of the abandonment, and either acceptance of the supplemental brief filed January 9, 2007, or alternatively acceptance of a second supplemental brief filed concurrently with the instant petition.

The petition is **DENIED** for the reasons below.

DECISION

Applicant argues that 37 CFR 1.136 gives them the right to file multiple attempts at corrected briefs within an extended time period.

However, 37 CFR 41.37(d) states:

> If a brief is filed which does not comply with all the requirements of paragraph (c) of this section, appellant will be notified of the reasons for non-compliance and given a time period within which to file an amended brief. If appellant does not file an amended brief within the set time period, or files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed.

See also MPEP 1205.03. The rules thus stipulate that filing an amended brief which fails to overcome the previously noted reasons for non-compliance will result in dismissal of the appeal. As the amended (supplemental) brief of January 9, 2007 did not overcome all the reasons for non-compliance stated in the notification, the examiner was correct in dismissing the appeal. As no claims stood allowed at the time of dismissal, the examiner was likewise correct in holding the application to be abandoned (MPEP 1215.04). The applicant may petition to revive the application as in other cases of abandonment, and to reinstate the appeal.

While applicant may extend the time period to file a first amended reply brief, 37 CFR 41.37(d) is explicit and unambiguous as to the results of filing an amended brief which does not overcome all the reasons for non-compliance stated in the notification, namely, "the appeal will stand dismissed." Upon dismissal of the appeal, no time period for response is in effect and thus 37 CFR 1.136 does not apply.

It is noted the form cited by applicant is an unofficial and unauthorized modification of a standard USPTO form and does not reflect USPTO policy as clearly articulated in 37 CFR 31.37(d) and MPEP 1205.03.

As the examiner was correct in holding the supplemental brief to be non-compliant and correct in holding the appeal dismissed, the instant petition is **DENIED.**

Applicant's petition for revival will be forwarded to the Office of Petitions for consideration.

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

10/270,163

STEVENS, DAVIS, MILLER & MOSHER, L.L.P.
Suite 850
1615 L Street, N.W.
Washington DC 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SUGHRUE MION PLLC
2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20037-3213

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MAY 0 2 2005

OFFICE OF PETITIONS

In re Application of	:
Kazuo Hiraguchi et al	:
Application No. 10/270,171	: DECISION GRANTING PETITION
Filed: October 15, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q72356	:

This is a decision on the petition, filed April 29, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 19, 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 3654 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/270,238

Paper No.: _____

DATE : 4/14/05

TO SPE OF : ART UNIT 1745

SUBJECT : Request for Certificate of Correction on Patent No.: 6790552

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

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

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

Lamonte Newsome

Thank You For Your Assistance

Certificates of Correction Branch

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

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

Comments:

_____

_____

_____

_____

_____

SPE

1745
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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Paper No. 6

Law Office of Sam Bernardo
527 South Lake Avenue
Suite 102
Pasadena, CA 91101

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MAY 0 7 2004
OFFICE OF PETITIONS

In re Application of :
Ted E. Cox :
Application No. 10/270,269 :
Filed: October 11, 2002 :
Attorney Docket No. M002 100 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 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** a final agency action within the meaning of 5 U.S.C. § 704.

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

A Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed to applicant on November 26, 2002, setting a two-month period within which to submit a reply. Since, no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on January 27, 2003.

Petitioner has not provided a properly signed oath or declaration in compliance with 37 CFR 1.63, the basic filing fee of $385, and the late filing fee or oath or declaration surcharge of $65, as required by the Notice. The application cannot be revived until such are received. Since petitioner alleges he did not receive the Notice, a copy is attached herewith.

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
Room 1B03
Arlington, VA 22202

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

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

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

Attachment: Copy of Notice to File Missing Parts of Nonprovisional Application dated 11/26/02

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

Law Office of Sam Bernado
527 South Lake Avenue
Suite 102
Pasadena, CA 91101

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OFFICE OF PETITIONS

In re Application of	:	
Ted E. Cox	:	
Application No. 10/270,269	:	ON PETITION
Filed: October 11, 2002	:	
Attorney Docket No. M002 100	:	

This is a decision on the correspondence filed June 3, 2004, which is being treated as a renewed petition under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

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MAY 16 2003

OFFICE OF PETITIONS

ANTHONY P. VENTURINO
STEVENS, DAVIS, MILLER & MOSHER, L.L.P.
1615 L STREET, N.W., SUITE 850
WASHINGTON, DC 20036

In re Application of :
Benjamin H. Watts, et al. :
Application No. 10/270,275 :
Filed: October 15, 2002 :
Attorney Docket No. APV30996CIP :

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 matter may be directed to Retta Williams at (703) 306-5594 or in my absence, Frances Hicks at (703) 305-8680.

The file is being forwarded to Technology Center 3600, Art Unit 3618 for further processing.

Retta Williams

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

Karen Creasy for

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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STEVEN S. PAYNE
LAW OFFICE OF STEVEN S. PAYNE
8027 ILIFF DRIVE
DUNN LORING, VA 22027

COPY MAILED

OCT 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Larsson, Niklas	:	
Application No. 10/270,282	:	ON PETITION
Filed: October 15, 2002	:	
Attorney Docket No. 10215-000004/US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

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.

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 $1050.00 extension of time fee submitted with the petition on September 24, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card.

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

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.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: CAPITOL IP PLLC
P.O. BOX 1210
VIENNA, VA 22183

0 7 APR 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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Ray Heflin
P.O. Box 1210
Vienna ,VA 22183

In re Application of	:
Larsson	: DECISION ON
U.S. App No.: 10/270,282	: PETITION
Attorney's Docket No.: 10215-000004/US	: UNDER
For: BATTERY HOLDER	: 37 CFR 1.78(a)(3)

This is a petition decision on petition under 37 CFR 1.78(a)(3), filed 24 September 2008, to accept an unintentionally delayed claim under 35 U.S.C. 120 and 365(c) for benefit of priority to the prior-filed international application designating the United States, PCT/SE01/00807, set forth in the amendment filed 24 September 2008.

The petition is **GRANTED**.

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

A petition for acceptance of a late claim for 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 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 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 complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed international 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 prior-filed international application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of this petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirement 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 this application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Debra Brittingham at (571) 272-3280. 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 1795 for appropriate action of the amendment filed 24 September 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 international application.

Debra Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUN 0 2 2003

OFFICE OF PETITIONS

In re Application of
Blossom, et al.
Application No.: 10/270,287
Filed: October 15, 2002
Attorney Docket No.: 47004.000165
For: METHOD AND SYSTEM FOR AUTOMATED LINKABLE PROMOTIONS

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed May 6, 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 15, 2002 without an executed oath or declaration. Accordingly, on December 6, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on May 6, 2003, a petition for a three month extension of time and required fee, a declaration executed by 5 of 6 joint inventors, the surcharge, the petition fee, and the instant petition were filed. The petition states that the non-signing inventor, Mark Hayes, was e-mailed a copy of the application, declaration, and assignment for the above-identified application, but Mr. Hayes did not respond to the request that he sign the declaration for the patent application.

A grantable petition under 37 CFR 1.47(a) requires

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

This petition lacks items (1) and (2) above.

As to item (1), applicants have failed to establish that the inventor has refused to sign the declaration. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events. The Office requires that the non-signing inventors be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d).

Exhibit H to the petition is an e-mail sent April 9, 2003 from Dr. Phelps to Dr. Mann that states,"... Steve Schreiner took the initiative to prepare an electronic copy of the application, which he is forwarding to Mark Hayes."

This e-mail does not prove that Mr. Schreiner sent the application via e-mail. This e-mail does not prove that Mr. Hayes received this e-mail, if it was in fact sent.

Mr. Hayes must have the complete application in his possession in order to make an informed decision as to whether he joins in its filing. If petitioners wish to pursue an e-mail delivery option, petitioners must show that Mr. Hayes was e-mailed the application **AND** opened it or responded in some way to the e-mail (thus proving he opened it).

If petitioners wish to pursue a regular mail delivery option, petitioners must send the application papers to Mr. Hayes' last known address with a request that he sign the declaration. If he either refuses to sign the declaration or does not respond to the request that he sign the declaration, petitioners will have satisfied this requirement.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 still has not been presented. The Declaration lists **3** sole or first inventors: Novak, Riesenbach, and Sharkey. In addition, the Declaration submitted with the present petition identifies each inventor individually on a separate sheet of paper without any reference to the other joint inventors. The Declaration should set forth all of the joint inventors on the same page or the declaration should have page numbers -- i.e. 1/3, 2/3, 3/3 -- to ensure that each named inventor is aware of the other named inventors of the subject matter. See 37 CFR 1.63. For these reasons, an oath or declaration in compliance with 37 CFR 1.63 is required. See MPEP 409.03(a). The inventors must execute another declaration that addresses the above issues.

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

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 8

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

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AUG 1 3 2003

OFFICE OF PETITIONS

In re Application of
Blossom, et al.
Application No.: 10/270,287
Filed: October 15, 2002
Attorney Docket No.: 47004.000165
For: METHOD AND SYSTEM FOR AUTOMATED LINKABLE PROMOTIONS

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed August 4, 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 15, 2002 without an executed oath or declaration. Accordingly, on December 6, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing. The instant reconsideration petition is accompanied by a statement of facts of Attorney Michael P.F.Phelps that establishes that the non-signing inventor, Mark Hayes, was mailed a complete copy of the application, an assignment and a declaration along with a request that he sign the declaration. Mr. Hayes did not respond to the request.

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 still has not been presented. The declaration contains noninitialed, nondated alteration to Maryann M. Sharkey's name and mailing address. 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).

Fortunately, the deficiencies or inaccuracies relate to a signing inventor. Thus, pursuant to 37 CFR 1.67(a)(2), Ms. Sharkey can correct her information on a supplemental declaration identifying the entire inventive entity and their information, but signed only by her.

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

By mail:	Mail Stop PETITION Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916 Attn: Office of Petitions
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

Exhibit H to the petition is an e-mail sent April 9, 2003 from Dr. Phelps to Dr. Mann that states,"... Steve Schreiner took the initiative to prepare an electronic copy of the application, which he is forwarding to Mark Hayes."

This e-mail does not prove that Mr. Schreiner sent the application via e-mail. This e-mail does not prove that Mr. Hayes received this e-mail, if it was in fact sent.

Mr. Hayes must have the complete application in his possession in order to make an informed decision as to whether he joins in its filing. If petitioners wish to pursue an e-mail delivery option, petitioners must show that Mr. Hayes was e-mailed the application **AND** opened it or responded in some way to the e-mail (thus proving he opened it).

If petitioners wish to pursue a regular mail delivery option, petitioners must send the application papers to Mr. Hayes' last known address with a request that he sign the declaration. If he either refuses to sign the declaration or does not respond to the request that he sign the declaration, petitioners will have satisfied this requirement.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 still has not been presented. The Declaration lists **3** sole or first inventors: Novak, Riesenbach, and Sharkey. In addition, the Declaration submitted with the present petition identifies each inventor individually on a separate sheet of paper without any reference to the other joint inventors. The Declaration should set forth all of the joint inventors on the same page or the declaration should have page numbers -- i.e. 1/3, 2/3, 3/3 -- to ensure that each named inventor is aware of the other named inventors of the subject matter. See 37 CFR 1.63. For these reasons, an oath or declaration in compliance with 37 CFR 1.63 is required. See MPEP 409.03(a). The inventors must execute another declaration that addresses the above issues.

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

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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

COMMISSIONER FOR PATENTS
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Paper No. 10

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

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AUG 2 5 2003

OFFICE OF PETITIONS

In re Application of
Blossom, et al.
Application No.: 10/270,287
Filed: October 15, 2002
Attorney Docket No.: 47004.000165
For: METHOD AND SYSTEM FOR
AUTOMATED LINKABLE PROMOTIONS

ON PETITION

This is a decision on the petition under 37 CFR 1.182 filed August 15, 2003, to change the order of inventorship.

The petition is DISMISSED.

It is noted that the desired order of inventorship listed in the instant petition fails to include Christopher S. Novak. While the Office will approve changing the order of inventors to list Mark R. Hayes as the first named inventor, the Office cannot eliminate Christopher S. Novak as an inventor without a petition under 37 CFR 1.48.

Petitioners are encouraged to submit a reconsideration petition under 37 CFR 1.182 that lists the desired order of inventors and includes Mr. Novak among the inventors. 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 1.182"

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 14

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

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OCT 27 2003

OFFICE OF PETITIONS

In re Application of
Blossom, et al.
Application No.: 10/270,287
Filed: October 15, 2002
Attorney Docket No.: 47004.000165
For: METHOD AND SYSTEM FOR AUTOMATED LINKABLE PROMOTIONS

ON PETITION

This is a decision on the reconsideration petition under 37 CFR 1.182 to change the order of inventorship and the reconsideration petition under 37 CFR 1.47(a). Both petitions were filed on September 30, 2003

The petition under 37 CFR 1.182 is GRANTED.

The order of joint inventors will be:

Mark R. Hayes
George W. Blossom
Michael S. Kutsch
Christopher Novak
Robert Riesenbach
Maryann M. Sharkey

A replacement filing receipt is enclosed.

Papers filed on September 30, 2003 in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on August 13, 2003, included a Declaration signed by the previously nonsigning inventor, Mark Hayes, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, the petition under 37 CFR 1.47(a) is DISMISSED AS MOOT; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosure: replacement filing receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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SHIH-NENG CHEN
P.O. BOX NO. 6-57
CHUNG-HO
TAIPEI 235
TAIWAN

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JUN 0 8 2006
OFFICE OF PETITIONS

In re Application of	:	
Shih-Neng Chen	:	
Application No. 10/270,299	:	ON PETITION
Filed: October 15, 2002	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.181, filed April 3, 2006 (originally submitted June 22, 2005), to withdraw the holding of abandonment.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed January 14, 2004. Accordingly, this application became abandoned on April 15, 2004. A Notice of Abandonment was mailed on August 24, 2004.

Petitioner asserts the Office action was not received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

The required statements and docket records have been submitted and considered.

The petition is granted. In view thereof, the Notice of Abandonment is hereby vacated, and the holding of abandonment is withdrawn. A new Office action will be mailed and the period for reply will be re-started.

Technology Center AU 3727 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's support staff for re-mailing of the January 14, 2004 Office action. The period for response will be set to run from the mailing date of the new Office action.

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

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

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MAIL

FEB 14 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of:
Kyung-Hwa Min
Application Serial No.: 10/270,340
Filed: October 15, 2002
For: **METHOD FOR TESTING SUBSCRIBER LINE OF PRIVATE AUTOMATIC BRANCH EXCHANGE USING DUAL-TONE MULTI-FREQUENCY SIGNAL**

DECISION ON PETITION

This is a decision on the petition, under 37 C.F.R. §1.181, filed on December 2, 2004 requesting the withdrawal of the requirement to label Figure 1 as "Prior Art".

The petition is GRANTED.

A review of the record indicates that Figure 1 as originally filed and discussed was referred to as containing a "conventional" line tester in a subscriber circuit. The original disclosure did not indicate that the figure was prior art. Hence, in keeping with the disclosure and applicant's arguments, the requirement to label this figure as "Prior Art" is withdrawn.

Kenneth A. Wieder
for

Mark R. Powell
Technology Center 2600
Communications

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Alexandria, VA 22313-1450
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NOV 16 2004

Paper No. 5

In re Application of	:	
Franco Bavelloni	:	
Application No. 10/270,355	:	DECISION ON PETITION
Filed: October 15, 2002	:	
Attorney Docket No N.35981/mfc	:	

This is a decision on the petition filed on July 14, 2004, by which petitioner requests withdrawal of holding that this application stands abandoned for failure to file a proper and timely reply to the Office letter dated March 20, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that a timely and proper reply to the Office letter in question was in fact filed by facsimile transmission on December 30, 2003. Petitioner has supported this allegation by furnishing a copy of the reply. The reply includes a petition for a one month extension of time and authorization to charge Deposit Account No. 13-3860 in the amount of $55.00 for the extension fee. The reply has affixed thereto a 37 CFR 1.8(a) certificate of transmission dated May 14, 2003, a date within the period set for filing a reply to the Office letter in question, as extended. It is clear from this evidence that the application is not abandoned. See 37 CFR 1.8(b).

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the reply filed on May 14, 2003. In addition, as Office financial records do not show that the extension fee was charged, the extension fee will be charged to Deposit Account No. 13-3860 at the time that the reply is entered. Thereafter, the application will be forwarded to the examiner for immediate action on the reply filed on May 14, 2003.

PETITION GRANTED.

E. Rollins-Cross

E. Rollins-Cross, Director
Technology Center 3700

Modiano & Associati
Via Meravigli, 16
20123 Milano, Italy
Europe

VIA AIR MAIL

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Alexandria, VA 22313-1450
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Tzu-Chen Liu
P.O. Box No. 6-57
Chung-Ho
Taipei 235 TAIWAN
AIR MAIL

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JAN 1 2 2006

OFFICE OF PETITIONS

In re Patent No. 6,705,751 :
Issued: March 16, 2004 :
Application No. 10/270,375 : DECISION ON PETITION
Filed: October 15, 2002 :
Title: POST-TYPE ROPE LIGHT :

This is a decision on the petition, filed December 2, 2005, requesting issuance of duplicate Letters Patent.

The record discloses that the present application matured into U.S. Patent No. 6,705,751 on March 16, 2004. However, the practitioner contends that he never received the Letters Patent.

In the present petition, petitioner has made the required showing of non-receipt of the original Letters Patent. Accordingly, the petition is **granted**. No petition fee is required.

The Office of Patent Publications is directed to issue a duplicate Letters Patent.

A copy of this decision is being forwarded to the Office of Patent Publications for issuance of a duplicate Letters Patent.

Telephone 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

cc: Kimberly Terrell, South Tower, 8th Floor, Room C-41 (FAX 571-273-9740)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/16/08

TO SPE OF : ART UNIT 1649

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/270377** Patent No.: **7282351**

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.

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

Comments: _____

JEFFREY STUCKER
SUPERVISORY PATENT EXAMINER
SPE

1649
Art Unit

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Technology Center 2100

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HEWLETT-PACKARD COMPANY
ATTN: INTELLECTUAL PROPERTY ADM:
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

NOTICE OF WITHDRAWAL

FROM ISSUE
UNDER 37 CFR 1.313(b)

In re Application of
Cheh Goh
Application No. 10/270,393
Filed: October 15, 2002
Attorney Docket No.: 30007314-2
For: METHOD OF PRINTING A DOCUMENT

The application is being withdrawn to permit reopening of prosecution, because the application contains at least one claim that is unpatentable. See 37 CFR 1.313(b)(3).

The above-identified application is hereby withdrawn from issue.

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

Telephone inquiries should be directed to James Dwyer 571-272-7220.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

James Dwyer
Director, Technology Center 2100
Computer Architecture, Software
And Electronic Commerce

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Paper No. 11

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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OCT 17 2003

OFFICE OF PETITIONS

In re Application of
Vyvoda, et al.
Application No. 10/270,394
Filed: October 15, 2002
Attorney Docket No. 035905-0127
For: INVERTED STAGGERED THIN FILM TRANSISTOR WITH SALICIDED SOURCE/ DRAIN STRUCTURES AND METHOD OF MAKING SAME

: 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 July 16, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/961,278, filed Septmber 25, 2001.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after 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 reference to the above-noted, prior-filed application was not included in the manner specified in 37 CFR 1.78(a)(2)(I) (i.e., in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(2)(ii).

---

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

A reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification has been included in an amendment filed on July 16, 2003. 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 de Seversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment deleting the incorporation by reference statement, 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 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 may be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Vyvoda, et al.
Application No. 10/270,394
Filed: October 15, 2002
Attorney Docket No. 035905-0127
For: INVERTED STAGGERED THIN FILM TRANSISTOR WITH SALICIDED SOURCE/ DRAIN STRUCTURES AND METHOD OF MAKING SAME

: 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 July 16, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/961,278, filed Septmber 25, 2001.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after 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 reference to the above-noted, prior-filed application was not included in the manner specified in 37 CFR 1.78(a)(2)(I) (i.e., in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(2)(ii).

---

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

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A reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification has been included in an amendment filed on July 16, 2003. 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 de Seversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment deleting the incorporation by reference statement, 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 PETITION
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Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

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Telephone inquiries may be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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Paper No. 14

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WASHINGTON DC 20007

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OFFICE OF PETITIONS

In re Application of
Vyvoda, et al.
Application No. 10/270,394
Filed: October 15, 2002
Attorney Docket No. 035905-0127
For: INVERTED STAGGERED THIN FILM TRANSISTOR WITH SALICIDED SOURCE/ DRAIN STRUCTURES AND METHOD OF MAKING SAME

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the reconsideration petition under 37 CFR 1.78(a)(3), filed October 27, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/961,278, filed September 25, 2001.

The petition is **GRANTED**.

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

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(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 reference to the above-noted, prior-filed application was not included in the manner specified in 37 CFR 1.78(a)(2)(i) (i.e., in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(2)(ii).

---

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

The instant pending application was filed on October 15, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

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

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

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

This application is being forwarded to Technology Center Art Unit 2864 for further examination and for processing and consideration by the Examiner of applicant's claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (2) for the benefit of priority to the prior-filed nonprovisional application.

Telephone inquiries may be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

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

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DIW May-06

NIKOLAI & MERSEREAU, P.A.
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Patent No. 6,848,587	:	
Issued: 1 February, 2005	:	
Application No. 10/270,397	:	ON PETITION
Filed: 11 October, 2002	:	
For: LOCATING STRUCTURE OF A	:	
RACK USED FOR HOLDING PISTOL-	:	
TYPE NOZZLES	:	

This is a decision on the petition, filed on 29 March, 2005, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **DISMISSED AS MOOT**.

In view of the paper filed on 27 July, 2005, entitled "Withdrawal of Petition" stating that the original Letters Patent has now been received, the petition filed on 29 March, 2005, is dismissed as moot.

No petition fee is due and none has been paid.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

10/270,420

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed:

In re application of	:	
Held et al.	:	**DECISION ON**
U.S. Patent No. 6,709,594 B2	:	**PETITION**
Issued: March 23, 2004	:	
For: METHOD FOR TREATING WASTE-ACTIVATED SLUDGE USING ELECTROPORATION	:	

This is a decision on the petition filed August 31, 2004 to correct inventorship in a patent under 37 CFR 1.324. Applicants are deemed to have fulfilled the requirements under this rule in that the petition is accompanied by: (1) Statement from the person being added as inventor that the inventorship error occurred without any deceptive intention; (2) Statements from the currently named inventors, including the inventors whose names are being added agreeing to the change of inventorship; (3) a statement from the assignee of the parties submitting statements under (1) above agreeing to the change of inventorship in the patent in compliance with 37 CFR 3.73(b); and (4) the fee set forth in 37 CFR 1.20(b).

The petition is **GRANTED**.

Duane S. Smith, SPE
Art Unit 1724
Technology Center 1700
Chemical and Materials Engineering

Patrick Ertel
MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO IL 60606

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Mr. Mongkol Jesadanont
386/2 Ratchadaphisek 42, Ratchadaphisek Rd.
Chatuchak, Bangkok 10900 Thailand
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In re Patent No. 6,892,665
Issued: May 17, 2005
Application No. 10/270,435
Filed: October 15, 2002
Attorney Docket No. BOAT 01-2002

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed February 13, 2006, and supplemented on July 31, 2006, requesting a duplicate Letters Patent. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience to petitioners.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.182."

Initially, the Office notes that petitioners requested the issuance of duplicate Letters Patent for two separate patents, Nos. 6,892,665 and 6,893,386, but filed only **one** petition for both patents. Pursuant to 37 CFR 1.4,

> (b) Since each file must be complete in itself, **a separate copy of every paper** to be filed in a patent, patent file, or other proceeding must be furnished **for each file to which the paper pertains,** even though the contents of the papers filed in two or more files may be identical. The filing of duplicate copies of correspondence in the file of an application, patent, or other proceeding should be avoided, except in situations in which the Office requires the filing of duplicate copies. The Office may dispose of duplicate copies of correspondence in the file of an application, patent, or other proceeding.
>
> (c) Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, **each distinct subject, inquiry or**

order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

Therefore, the Office will consider each request separately and on its own merits, and thereafter, will issue two decisions (*i.e.*, one decision in the file of Patent No. 6,892,665 and another decision in the file of Patent No. 6,893,386).

Next, the Office notes that a request for a duplicate Letters Patent may be granted in two situations: 1) due to the loss of the original Letters Patent either by the law firm, applicant or assignee, or the destruction of the Letters Patent (petition fee required); or 2) due to non-receipt of the Letters Patent (no petition fee required).

In the first situation, a petitioner must provide a statement from a person with first-hand knowledge of the events, attesting to the fact that the original Letters Patent was either lost or destroyed. Additionally, a $400.00 petition fee is required.

In the second situation, the showing required for issuance of a duplicate Letters Patent with no fee due to non-receipt is the same as that set forth in the Manual for Patent Examining Procedure, Section 711.03(c), under the subheading "Petitions to Withdraw the Holding of Abandonment." The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner or patentee, attesting to the fact that the practitioner or patentee did not receive the original Letters Patent and that a search of the file jacket and docket records indicates that the original Letters Patent was not received.

2. A copy of the docket records, where the non-received original Letters Patent would have been entered had it been received and docketed, must be attached to and referenced in the statement of the practitioner or patentee.

In this instance, it appears that petitioners are asserting that they never received the original Letters Patent. Unfortunately, petitioners did not comply with the requirements set forth in MPEP 711.03(c). Specifically, petitioners did not provide a statement attesting to that fact that a search of their records indicated that the original Letters Patent was not received. Moreover, petitioners did not submit any documentary evidence such as a copy of their records or a mail log to establish non-receipt. Accordingly, the petition is **dismissed**.

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

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

By 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.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mr. Mongkol Jesadanont
386/2 Ratchadaphisek 42, Ratchadaphisek Rd.
Chatuchak, Bangkok 10900 Thailand
AIR MAIL

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APR 0 4 2007

OFFICE OF PETITIONS

In re Patent No. 6,892,665
Issued: May 17, 2005
Application No. 10/270,435
Filed: October 15, 2002
Attorney Docket No. BOAT 01-2002

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.182, filed December 8, 2006, requesting the issuance of a duplicate Letters Patent without payment of a fee.

As stated in the previous decision, a request for a duplicate Letters Patent may be granted in two situations: (1) establishment of non-receipt of the Letters Patent (no fee required); or, (2) loss or the destruction of the original Letters Patent (fee required).

In the first situation (no fee required), the Office follows the guidelines set forth in MPEP 711.03(c) (*see also* "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993), which sets forth that, in the absence of any irregularity in the mailing of an Office action (in this case, the Letters Patent), there is a strong presumption that the Office action (Letters Patent) was properly mailed to the address of record. This presumption may be overcome by a showing that the Letters Patent was not in fact received.

In the present petition, petitioner states that the original Letters Patent was never received. Furthermore, petitioner asserted that he was unable to track the mailing of the original Letters Patent. Petitioner argued that he should not be required to pay a fee for the issuance of a duplicate Letters Patent because it was not the fault of petitioner.

Unfortunately, petitioner did not meet the requirements set forth in MPEP 711.03(c). The evidence required to establish non-receipt of the original Letters Patent did not accompany the petition. Therefore, the renewed petition requesting issuance of a duplicate Letters Patent for the above-identified patent without payment of a fee must be **DISMISSED**.

Since petitioner is unable to provide the required evidence to establish non-receipt of the original Letters Patent, petitioner may wish to consider filing a renewed petition under 37 CFR 1.182, requesting issuance of a duplicate Letters Patent, and pay the required fee of $400.00.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.182."

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
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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mr. Mongkol Jesadanont
386/2 Ratchadaphisek 42, Ratchadaphisek Rd.
Chatuchak, Bangkok 10900 Thailand
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JUN 2 0 2007

OFFICE OF PETITIONS

In re Patent No. 6,892,665	:	
Issued: May 17, 2005	:	
Application No. 10/270,435	:	DECISION ON PETITION
Filed: October 15, 2002	:	
Attorney Docket No. BOAT 01-2002	:	

This is a decision on the second renewed petition under 37 CFR 1.182, filed May 29, 2007, requesting the issuance of a duplicate Letters Patent without payment of a fee.

Again, petitioner asserted that the original Letters Patent was never received. Petitioner argued that he should not be required to pay a fee for the issuance of duplicate Letters Patent because it was not the fault of petitioner. As stated in the previous two decisions, a request for a duplicate Letters Patent may be granted in two situations: (1) establishment of non-receipt of the Letters Patent (no fee required); or, (2) loss or the destruction of the original Letters Patent (fee required).

In the first situation (no fee required), the Office follows the guidelines set forth in MPEP 711.03(c) (*see also* "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993), which sets forth that, in the absence of any irregularity in the mailing of an Office action (in this case, the Letters Patent), there is a strong presumption that the Office action (Letters Patent) was properly mailed to the address of record. This presumption may be overcome by a showing that the Letters Patent was not in fact received. The burden of proof of non-receipt is on the petitioner and not on the USPTO. A review of the record indicates no irregularity in the mailing of the Letters Patent, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice was properly mailed to the address of record.

As petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence,

petitioner must show that the Letters Patent was not received as evidence by petitioner's records. Petitioner should include any available documentary evidence of any type of log showing correspondence mailed to and received from the USPTO, covering a reasonable period (approximately two months) from May 17, 2005, the mailing date of the Letters Patent, to demonstrate non-receipt.

Petitioner must include a statement from petitioner, or any other person at the address of record, who handles correspondence from the USPTO, indicating that a search was conducted of the location where correspondence from the USPTO is kept; however, the Letters Patent was not found. Lastly, petitioner must state that the correspondence address of record was a current address for a reasonable time after May 17, 2005; the period when he would have received the Letters Patent.

Unfortunately, petitioner did not meet the requirements set forth in MPEP 711.03(c). The evidence required to establish non-receipt of the original Letters Patent did not accompany the petition. Therefore, the renewed petition requesting issuance of duplicate Letters Patent for the above-identified patent without payment of a fee must be **DISMISSED**.

Since petitioner is unable to provide the required evidence to establish non-receipt of the original Letters Patent, petitioner may wish to consider filing a renewed petition under 37 CFR 1.182, requesting issuance of a duplicate Letters Patent, and pay the required fee of $400.00.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.182."

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

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

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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Searching US Patent Collection...

Results of Search in US Patent Collection db for:
IN/Jesadanont: 11 patents.
*Hits **1** through **11** out of **11***

Jump To

Refine Search IN/Jesadanont

	PAT. NO.		Title
1	7,106,214	T	Apparatus and method of finding an unoccupied parking space in a parking lot
2	6,892,665	T	Smart flying outboard boat
3	6,550,090	T	Surface scrubbing machine
4	6,170,109	T	Automatic machines for cleaning outer wall of a high-rise building
5	6,131,667	T	Manual and automatic fire extinguishing systems
6	5,825,007	T	Automatic non-computer network no-stop collection of expressway tolls by prepaid cards and method: pay according to category of vehicle and the distance it travels
7	5,810,417	T	Automatic safety car seats and sheet-type safety-belt
8	5,746,467	T	Automatic safety car seat using tension springs
9	5,566,668	T	Life-saving helmet
10	5,451,758	T	Automatic non-computer network no-stop collection of expressway tolls by magnetic cards and method
		T	

11	5,397,028	Automatic fluid dispenser and method

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Patent No. 6,892,665
Application No. 10/270,435

Since petitioner is unable to provide the required evidence to establish non-receipt of the original Letters Patent, petitioner may wish to consider filing a renewed petition under 37 CFR 1.182, requesting issuance of a duplicate Letters Patent, and pay the required fee of $400.00.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.182."

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

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P.O. Box 1450
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By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Mr. Mongkol Jesadanont
386/2 Ratchadaphisek 42, Ratchadaphisek Rd.
Chatuchak, Bangkok 10900 Thailand
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OFFICE OF PETITIONS

In re Patent No. 6,892,665 :
Issued: May 17, 2005 :
Application No. 10/270,435 : DECISION ON PETITION
Filed: October 15, 2002 :
Attorney Docket No. BOAT 01-2002 :

This is a decision on the renewed petition under 37 CFR 1.182, filed December 8, 2006, requesting the issuance of a duplicate Letters Patent without payment of a fee.

As stated in the previous decision, a request for a duplicate Letters Patent may be granted in situations: (1) establishment of non-receipt of the Letters Patent (no fee required); or, (2) lo: the destruction of the original Letters Patent (fee required).

In the first situation (no fee required), the Office follows the guidelines set forth in MPEP 711.03(c) (*see also* "Withdrawing the Holding of Abandonment When Office Actions Are N Received," 1156 Official Gazette 53 (November 16, 1993), which sets forth that, in the abse of any irregularity in the mailing of an Office action (in this case, the Letters Patent), there is strong presumption that the Office action (Letters Patent) was properly mailed to the addres record. This presumption may be overcome by a showing that the Letters Patent was not in received.

In the present petition, petitioner states that the original Letters Patent was never received. Furthermore, petitioner asserted that he was unable to track the mailing of the original Lette Patent. Petitioner argued that he should not be required to pay a fee for the issuance of a duplicate Letters Patent because it was not the fault of petitioner.

Unfortunately, petitioner did not meet the requirements set forth in MPEP 711.03(c). The evidence required to establish non-receipt of the original Letters Patent did not accompany t: petition. Therefore, the renewed petition requesting issuance of a duplicate Letters Patent fc above-identified patent without payment of a fee must be **DISMISSED**.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BIRCH, STEWART,
KOLASCH & BIRCH, LLP
PO Box 747
FALLS CHURCH VA 22040-0747

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Nielsen, et al.	:	
Application No. 10/270,445	:	DECISION
Filed: 15 October, 2002	:	
Attorney Docket No. 5486-0127PUS2	:	

This is a decision on the petition filed on 18 February, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181. Petitioners must, *inter alia*, provide statements and documentary support as set forth in the Commentary at MPEP §711.03(c)(I)—*and with particularity to the requirements therein including statements of non-receipt at the address of record, search and non-discovery, with a description of docketing system and a statement of its reliability, and support for those the statements with copies of the docket record/file jacket cover and due date calendar/docket. (Further, the regulations at 37 C.F.R. §1.181 require that a Petitioner seek relief thereunder within two (2) months of the act complained of.)*

BACKGROUND

The record reflects as follows:

Petitioner failed to reply to a non-final Office action mailed on 8 July, 2008, with reply due absent extension of time on or before 8 October, 2008.

The application went abandoned by operation of law after midnight 8 October, 2008.

The Office does not appear to have mailed the Notice of Abandonment before a petition was filed.

On 18 February, 2009, Petitioner filed a petition pursuant to 37 C.F.R. §1.181, averred non-receipt and made statements of non-receipt at Petitioner's Office (discussed below), search and non-discovery, with a description of docketing system and a statement of its reliability, and support for those the statements with copies of the docket record/file jacket cover and due date calendar/docket.

Petitioner states that the Office action was not received at Petitioner's office, which is at variance from the showing requirements. Therefore, the Office is construing the statement to be that the Office action was not received at the address of record—if Petitioner's appreciation of the matter is something other than this reading, Petitioner ***must*** *notify the Office immediately.*

Thus, Petitioner appears to have made a showing of non-receipt—with statements and documentary submissions consistent with the guidance in the Commentary at discussed at MPEP §711.03(c)(I) and set forth below.

The Office mailed the Notice of Abandonment on 25 February, 2008.

Petitioners averring non-receipt always are directed to the requirements set forth in the Commentary at MPEP §711.03(c)(I), which provides in pertinent part:

***

> 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.[1]

***

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

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

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears to have satisfied the showing required.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.181 is **granted**, and the 25 February, 2008, Notice of Abandonment is **vacated**.

---

1 *See*: MPEP §711.03(c) (I)(A).

2 See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

The instant application is released to the Technology Center/AU 2446 for further processing in due course—to include the re-mailing of the 8 July, 2008, non-final Office action.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[3] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/270,445	10/15/2002	Henrik F. Nielsen	300688.02/MFCP.151456	5483

45809 7590 02/23/2010
SHOOK, HARDY & BACON L.L.P.
(MICROSOFT CORPORATION)
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108-2613

EXAMINER
BATURAY, ALICIA

ART UNIT	PAPER NUMBER
2446	

MAIL DATE	DELIVERY MODE
02/23/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHOOK, HARDY & BACON L.L.P.
(MICROSOFT CORPORATION)
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BOULEVARD
KANSAS CITY MO 64108-2613

In re Application of: Henrik NIELSEN et al.
Application No. 10/270,445
Filed: October 15, 2002
For: ROUTING OF NETWORK MESSAGES

DECISION SUA SPONTE WITHDRAWING HOLDING OF ABANDONMENT

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

This application is held abandoned for failure to timely file a proper response following a Petition Decision mailed 16 Mar 2009 within the expiration of the period for reply. A Notice of Abandonment was mailed on 28 Jan 2010.

A review of the file record indicates a Petition Decision was mailed on16 Mar 2009 to withdraw the abandonment of 25 Feb 2009 with no response period set. The Decision released the application to the Technology Center for further processing and re-mailing the 08 July 2008 Office action. A Notice of Abandonment was mailed on 28 Jan 2010 for failing to timely file a proper reply to the Petition Decision of 16 Mar 2009; however, there was no record to indicate a re-mailing of the 08 July 2008 Office action or a response period was set. Thus, the Notice of Abandonment mailed 28 Jan 2010 was premature.

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

The 08 July 2008 Office action is attached to this decision and the shortened statutory period for reply is set to commence on the date of mailing of this decision.

Applicants always are reminded that the availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

/Kim Huynh/

Kim Huynh,
Workgroup QAS, Technology Center 2400
Network, Multiplexing, Cable and Security
571-272-4147

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/270,445	10/15/2002	Henrik F. Nielsen	5486-0127PUS2	5483

67321 7590 07/08/2008
BIRCH, STEWART, KOLASCH & BIRCH, LLP
PO Box 747
FALLS CHURCH, VA 22040-0747

EXAMINER
BATURAY, ALICIA

ART UNIT	PAPER NUMBER
2146	

MAIL DATE	DELIVERY MODE
07/08/2008	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.

Office Action Summary	Application No.	Applicant(s)	
	10/270,445	NIELSEN ET AL.	
	Examiner	Art Unit	
	Alicia Baturay	2146	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

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

Status

1)☒ Responsive to communication(s) filed on *21 March 2008*.

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

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

Disposition of Claims

4)☒ Claim(s) *1-42,44-58 and 69* is/are pending in the application.

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

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-42,44-58 and 69* is/are rejected.

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

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

Application Papers

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

10)☒ The drawing(s) filed on *15 October 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

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

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

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

Priority under 35 U.S.C. § 119

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

a)☐ All b)☐ Some * c)☐ None of:

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

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

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

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

Attachment(s)

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

DETAILED ACTION

1. This Office Action is in response to the amendment filed 21 March 2008.

2. Claims 8, 42 and 54 were amended.

3. Claims 43 and 59-68 were cancelled.

4. Claims 1-42, 44-58 and 69 are pending in this Office Action.

Response to Amendment

5. The rejection of claims 42 and 44-53 under 35 U.S.C. 101 was addressed and is withdrawn.

6. Applicant's amendments and arguments with respect to claims 1-42, 44-58 and 69 filed on 21 March 2008 have been fully considered but they are deemed to be moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

8. Claims 1, 8, 11-16, 24, 29-34, 41, 42, 44-58 and 69 are rejected under 35 U.S.C. 102(a) as being anticipated by British Telecommunications PLC (GB 0118172.6).

9. With respect to claim 1, British Telecommunications PLC teaches a method for routing an electronic message from a sender to a receiver, comprising:

Generating an electronic message including a header portion and a data portion, said header portion comprising a forward message path to be taken by the message from a sender to a receiver (British Telecommunications PLC, page 1, lines 20-23), the forward message path including one or more application-layer intermediaries (British Telecommunications PLC, page 2, line 10 – page 3, line 9); sending the message to a first application-layer intermediary of the forward message path for processing by the first application-layer intermediary and subsequent delivery to one of a second application-layer intermediary when present (British Telecommunications PLC, page 11, lines 4-7) or the receiver when no second application-layer intermediary is present (British Telecommunications PLC, page 11, lines 9-12).

10. With respect to claim 8, British Telecommunications PLC teaches a method for routing an electronic message from a sender to a receiver, comprising:

Generating an electronic message including a header portion and a data portion, said header portion comprising a forward message path to be taken by the message from a sender to a receiver (British Telecommunications PLC, page 1, lines 20-23), such that the forward message path in the header portion designates one or more intermediaries via which the message is to travel from the sender to the receiver (British Telecommunications PLC, page 2, line 10 – page 3, line 9); sending the message to a first intermediary of the forward message path for processing by the first intermediary and subsequent delivery to one of a second intermediary when present (British Telecommunications PLC, page 11, lines 4-7) or the receiver when no second intermediary is present (British Telecommunications PLC, page 11, lines 9-12), wherein said generating the header portion further includes providing an indication to dynamically build a reverse message path as the message traverses the forward message path in such a manner that, after the message is received at the receiver, the reverse message path would designate a path from the receiver to the sender via the one or more intermediaries (British Telecommunications PLC, page 11, line 15 – page 14, line 4).

11. With respect to claim 11, British Telecommunications PLC teaches the invention described in claim 8, including the method wherein the indication comprises an empty reverse message path (British Telecommunications PLC, page 13, lines 19 – page 20, line 4).

12. With respect to claim 12, British Telecommunications PLC teaches in a network router that routes an application generated message having an ordered forward message path including one or more application-layer intermediaries between a sender and a receiver, a computer implemented method for routing the message, comprising:

(a) Receiving the message at a first application-layer intermediary corresponding to an application-layer intermediary at the beginning of the ordered forward message path; (b) processing the message by a first application provided by the first application-layer intermediary; (c) when the ordered forward message path is not empty, forwarding the message to a second application-layer intermediary corresponding to the beginning of the ordered forward message path subsequent to step (b) (British Telecommunications PLC, page 11, lines 4-7); and when the forward message path list is empty, forwarding the message to the receiver (British Telecommunications PLC, page 11, lines 9-12).

13. With respect to claim 13, British Telecommunications PLC teaches the invention described in claim 12, including the method further comprising the step of (e) inserting an additional application-layer intermediary into the ordered forward message path (British Telecommunications PLC, page 11, lines 4-7).

14. With respect to claim 14, British Telecommunications PLC teaches the invention described in claim 12, including the method wherein the processing step includes removing the first application-layer intermediary from the beginning of the ordered forward message path (British Telecommunications PLC, page 11, lines 9-12).

15. With respect to claim 15, British Telecommunications PLC teaches the invention described in claim 13, including the method wherein step (e) inserts the additional application-layer intermediary at the beginning of the ordered forward message path (British Telecommunications PLC, page 11, lines 4-7).

16. With respect to claim 16, British Telecommunications PLC teaches the invention described in claim 12, including the method wherein step (b) further includes providing a value-added service to the message (British Telecommunications PLC, page 3, line 21 – page 4, line 7).

17. With respect to claim 24, British Telecommunications PLC teaches the invention described in claim 14, including the method wherein the application generated message further includes an ordered reverse message path, further comprising (e) adding the application-layer intermediary removed from the forward message path in step (b) to the beginning of the reverse message path (British Telecommunications PLC, page 11, line 15 – page 14, line 4).

18. With respect to claim 29, British Telecommunications PLC teaches the invention described in claim 24, including the method further comprising, prior to step (e), sending a fault message back to the sender via the reverse message path (British Telecommunications PLC, page 14, lines 5-19).

19. With respect to claim 30, British Telecommunications PLC teaches the invention described in claim 24, including the method further comprising forwarding an acknowledgment message from the receiver back to the sender on the dynamically generated reverse message path (British Telecommunications PLC, page 11, line 15 – page 14, line 4).

20. With respect to claim 31, British Telecommunications PLC teaches a network router, comprising:

A processor; a network interface for sending and receiving network messages; memory storing computer readable instructions that, when executed by the processor, perform a method comprising: (a) receiving a message having an application-level generated message path, the message path comprising a sender, a receiver, and an ordered set of at least one application-layer intermediary (British Telecommunications PLC, page 2, line 10 – page 3, line 9), wherein the first application-layer intermediary of the ordered set corresponds to the network router; (b) removing the first application-layer intermediary from the ordered set of application-layer intermediaries (British Telecommunications PLC, page 10, line 19 – page 11, line 7); and (c) when the ordered set is not empty, sending the message to the next application-layer intermediary of the ordered set (British Telecommunications PLC, page 11, lines 7-9), otherwise, sending the message to the receiver (British Telecommunications PLC, page 11, lines 9-12).

21. With respect to claim 32, British Telecommunications PLC teaches the invention described in claim 31, including the network router wherein memory further comprises an

application program that, when executed, modifies the message path within the message (British Telecommunications PLC, page 5, lines 10-13).

22. With respect to claim 42, British Telecommunications PLC teaches a computer-readable medium having stored thereon a data structure created by an application-layer program, comprising:

A first data field containing data representing a receiver of a message, the receiver including a processor for processing the data structure; a second data field containing data representing a sender of the message; a third data field containing data representing a forward message path through which the message is routed from the sender to the receiver, said forward message path defining one or more application-layer intermediaries through which the message must pass as the message is routed from the sender to the receiver, each of the one or more application-layer intermediaries including a processor for processing the data structure, wherein the data structure causes the processors in the at least one of the receiver and the one or more application-layer intermediaries to route the message according to the forward message path (British Telecommunications PLC, page 10, line 19 – page 11, line 12).

23. With respect to claim 44, British Telecommunications PLC teaches the invention described in claim 42, including the computer readable medium further comprising a fourth data field containing data representing a reverse message path (British Telecommunications PLC, page 11, lines 18-25).

24. With respect to claim 45, British Telecommunications PLC teaches the invention described in claim 44, including the computer readable medium further comprising a fifth data field encapsulated by the fourth data field, the fifth data field specifying an application-layer intermediary on the reverse message path (British Telecommunications PLC, page 11, lines 18-25).

25. With respect to claim 46, British Telecommunications PLC, page 11, lines 18-25teaches the invention described in claim 42, including the computer readable medium further comprising a fourth data field containing data indicating that a relationship exists between the message and a second message (British Telecommunications PLC, page 12, lines 12-22).

26. With respect to claim 47, British Telecommunications PLC, page 11, lines 18-25teaches the invention described in claim 42, including the computer readable medium wherein said first, second and third data structures are stored in the header of the message (British Telecommunications PLC, page 1, lines 20-23).

27. With respect to claim 48, British Telecommunications PLC, page 11, lines 18-25teaches the invention described in claim 42, including the computer readable medium wherein the first data field comprises a "TO" element, the second data field comprises a "FROM" element, and the third data field comprises a "FWD" element (British Telecommunications PLC, page 10, line 19 – page 11, line 12).

28. With respect to claim 49, Nielsen teaches the invention described in claim 42, including the computer readable medium wherein the first data field comprises a "VIA" element, the second data field comprises a "VIA" element, and the third data field comprises a "VIA" element (British Telecommunications PLC, page 11, lines 4-12).

29. With respect to claim 50, British Telecommunications PLC teaches the invention described in claim 43, including the computer readable medium wherein the fourth data field comprises a "VIA" element (British Telecommunications PLC, page 11, lines 4-12).

30. With respect to claim 51, British Telecommunications PLC teaches the invention described in claim 46, including the computer readable medium wherein the fourth data field comprises a "RELATESTO" element (British Telecommunications PLC, page 11, lines 15-25).

31. With respect to claim 52, British Telecommunications PLC teaches the invention described in claim 44, including the computer readable medium wherein the fourth data field comprises a "REV" element (British Telecommunications PLC, page 11, lines 15-25).

32. With respect to claim 53, British Telecommunications PLC teaches the invention described in claim 45, including the computer readable medium wherein the fifth data field comprises a "VIA" element (British Telecommunications PLC, page 11, lines 4-12).

33. With respect to claim 55, British Telecommunications PLC teaches in a forward message path governed by a set of rules from an initial sender to an ultimate receiver, a method for enabling two-way message exchange patterns comprising:

Sending a message along the forward message path (British Telecommunications PLC, page 10, line 19 – page 11, line 12); and dynamically building a reverse path governed by substantially the same set of rules as the forward message path (British Telecommunications PLC, page 11, line 15 – page 14, line 4), wherein a header portion of the message describes the forward message by designating one or more intermediaries via which the message is to travel from the sender to the receiver (British Telecommunications PLC, page 10, line 19 – page 11, line 12), and wherein the reverse path is dynamically built while the message traverses the forward message path in such a manner that, after the message is received by the ultimate receiver, the reverse path designates a path from the receiver to the sender via the one or more intermediaries (British Telecommunications PLC, page 11, line 15 – page 14, line 4).

34. With respect to claim 56, British Telecommunications PLC teaches a method for specifying a two way message path, comprising:

(a) At an application layer, inserting at least one forward message path application-layer intermediary into a message envelope (British Telecommunications PLC, page 10, line 19 – page 11, line 12); and (b) when requested by an initial sender, each of said at least one forward message path application-layer intermediary inserting a reverse message path

application-layer intermediary into the message envelope (British Telecommunications PLC, page 11, line 15 – page 14, line 4).

35. With respect to claim 57, British Telecommunications PLC teaches the invention described in claim 56, including the method further comprising a specific application-layer intermediary inserting at least one additional application-layer intermediary into the message envelope (British Telecommunications PLC, page 10, line 19 – page 11, line 12).

36. Claims 33, 34, 41, 54, 55, 58, 69 do not teach or define any new limitations above claims 1, 8, 12, 13, 16 and 31 and therefore are rejected for similar reasons.

Claim Rejections - 35 USC § 103

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

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

38. Claims 2-5, 7, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over British Telecommunications PLC and further in view of Layman et al. (U.S. 7,069,335).

British Telecommunications PLC teaches the invention substantially as claimed including a method for sending a message via a label switch telecommunications network, the method

comprising: identifying at a first node a first label attached to a message; using the first label to identify a second label associated with the first label, the second label defining a forward path for the message; replacing the first label with the second label; sending the message and the second label to another node of the network; sending a return message associated with the said message from the said other node, together with the second label to the first node; using the second label to identify the first label, the first label defining a return path for the message, and replacing the second label with the first label (see British Telecommunications PLC, page 5, lines 6-18).

39. With respect to claim 2, British Telecommunications PLC teaches the invention described in claim 1, including a method for routing an electronic message from a sender to a receiver, comprising: generating an electronic message including a header portion and a data portion, said header portion comprising a forward message path to be taken by the message from a sender to a receiver (British Telecommunications PLC, page 1, lines 20-23), the forward message path including one or more application-layer intermediaries (British Telecommunications PLC, page 2, line 10 – page 3, line 9); sending the message to a first application-layer intermediary of the forward message path for processing by the first application-layer intermediary and subsequent delivery to one of a second application-layer intermediary when present (British Telecommunications PLC, page 11, lines 4-7) or the receiver when no second application-layer intermediary is present (British Telecommunications PLC, page 11, lines 9-12).

British Telecommunications PLC does not explicitly teach binding the message to an arbitrary transport protocol.

However, Layman teaches the method further comprising the step of binding the message to an arbitrary transport protocol (Layman, col. 4, line 66 – col. 5, line 8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify British Telecommunications PLC in view of Layman in order to enable binding the message to an arbitrary transport protocol. One would be motivated to do so in order to allow for the execution of remote procedure calls by enabling entities at both ends of the message exchange to understand, identify, and parse the message format.

40. With respect to claim 3, British Telecommunications PLC teaches the invention described in claim 2, including the method wherein the transport protocol comprises TCP (British Telecommunications PLC, page 1, lines 17-28).

41. With respect to claim 4, British Telecommunications PLC teaches the invention described in claim 2, including a method for routing an electronic message from a sender to a receiver, comprising: generating an electronic message including a header portion and a data portion, said header portion comprising a forward message path to be taken by the message from a sender to a receiver (British Telecommunications PLC, page 1, lines 20-23), the forward message path including one or more application-layer intermediaries (British Telecommunications PLC, page 2, line 10 – page 3, line 9); sending the message to a first application-layer intermediary of the forward message path for processing by the first

application-layer intermediary and subsequent delivery to one of a second application-layer intermediary when present (British Telecommunications PLC, page 11, lines 4-7) or the receiver when no second application-layer intermediary is present (British Telecommunications PLC, page 11, lines 9-12).

British Telecommunications PLC does not explicitly teach binding the message to an arbitrary transport protocol.

However, Layman teaches the method wherein the transport protocol comprises UDP (Layman, col. 4, line 66 – col. 5, line 8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify British Telecommunications PLC in view of Layman in order to enable binding the message to an arbitrary transport protocol. One would be motivated to do so in order to allow for the execution of remote procedure calls by enabling entities at both ends of the message exchange to understand, identify, and parse the message format.

42. With respect to claim 5, British Telecommunications PLC teaches the invention described in claim 2, including the method wherein the transport protocol comprises HTTP (British Telecommunications PLC, page 1, lines 17-28).

43. With respect to claim 7, British Telecommunications PLC teaches a method for routing an electronic message from a sender to a receiver, comprising: generating an electronic message including a header portion and a data portion, said header portion comprising a forward message path to be taken by the message from a sender to a receiver (British

Telecommunications PLC, page 1, lines 20-23), the forward message path including one or more application-layer intermediaries (British Telecommunications PLC, page 2, line 10 – page 3, line 9); sending the message to a first application-layer intermediary of the forward message path for processing by the first application-layer intermediary and subsequent delivery to one of a second application-layer intermediary when present (British Telecommunications PLC, page 11, lines 4-7) or the receiver when no second application-layer intermediary is present (British Telecommunications PLC, page 11, lines 9-12).

British Telecommunications PLC does not explicitly teach binding the message to an arbitrary transport protocol.

However, Layman teaches the method wherein the transport protocol comprises SMTP (Layman, col. 4, line 66 – col. 5, line 8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify British Telecommunications PLC in view of Layman in order to enable binding the message to an arbitrary transport protocol. One would be motivated to do so in order to allow for the execution of remote procedure calls by enabling entities at both ends of the message exchange to understand, identify, and parse the message format.

44. With respect to claim 9, British Telecommunications PLC teaches the invention described in claim 1, including a method for routing an electronic message from a sender to a receiver, comprising: generating an electronic message including a header portion and a data portion, said header portion comprising a forward message path to be taken by the message from a sender to a receiver (British Telecommunications PLC, page 1, lines 20-23), the

forward message path including one or more application-layer intermediaries (British Telecommunications PLC, page 2, line 10 – page 3, line 9); sending the message to a first application-layer intermediary of the forward message path for processing by the first application-layer intermediary and subsequent delivery to one of a second application-layer intermediary when present (British Telecommunications PLC, page 11, lines 4-7) or the receiver when no second application-layer intermediary is present (British Telecommunications PLC, page 11, lines 9-12).

British Telecommunications PLC does not explicitly teach binding the message to an arbitrary transport protocol.

However, Layman teaches the method wherein the message comprises a SOAP message (Layman, col. 4, lines 24-34).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify British Telecommunications PLC in view of Layman in order to enable binding the message to an arbitrary transport protocol. One would be motivated to do so in order to allow for the execution of remote procedure calls by enabling entities at both ends of the message exchange to understand, identify, and parse the message format.

45. With respect to claim 10, British Telecommunications PLC teaches the invention described in claim 1, including a method for routing an electronic message from a sender to a receiver, comprising: generating an electronic message including a header portion and a data portion, said header portion comprising a forward message path to be taken by the message from a sender to a receiver (British Telecommunications PLC, page 1, lines 20-23), the

forward message path including one or more application-layer intermediaries (British Telecommunications PLC, page 2, line 10 – page 3, line 9); sending the message to a first application-layer intermediary of the forward message path for processing by the first application-layer intermediary and subsequent delivery to one of a second application-layer intermediary when present (British Telecommunications PLC, page 11, lines 4-7) or the receiver when no second application-layer intermediary is present (British Telecommunications PLC, page 11, lines 9-12).

British Telecommunications PLC does not explicitly teach binding the message to an arbitrary transport protocol.

However, Layman teaches the method wherein the message comprises an XML message (Layman, col. 4, lines 24-34).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify British Telecommunications PLC in view of Layman in order to enable binding the message to an arbitrary transport protocol. One would be motivated to do so in order to allow for the execution of remote procedure calls by enabling entities at both ends of the message exchange to understand, identify, and parse the message format.

46. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over British Telecommunications PLC in view of Layman and further in view of Mathon et al. (U.S. 2001/0042131).

47. With respect to claim 6, British Telecommunications PLC teaches the invention described in claim 2, including a method for routing an electronic message from a sender to a receiver, comprising: generating an electronic message including a header portion and a data portion, said header portion comprising a forward message path to be taken by the message from a sender to a receiver (British Telecommunications PLC, page 1, lines 20-23), the forward message path including one or more application-layer intermediaries (British Telecommunications PLC, page 2, line 10 – page 3, line 9); sending the message to a first application-layer intermediary of the forward message path for processing by the first application-layer intermediary and subsequent delivery to one of a second application-layer intermediary when present (British Telecommunications PLC, page 11, lines 4-7) or the receiver when no second application-layer intermediary is present (British Telecommunications PLC, page 11, lines 9-12).

British Telecommunications PLC does not explicitly teach binding the message to an arbitrary transport protocol.

However, Layman teaches the method further comprising the step of binding the message to an arbitrary transport protocol (Layman, col. 4, line 66 – col. 5, line 8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify British Telecommunications PLC in view of Layman in order to enable binding the message to an arbitrary transport protocol. One would be motivated to do so in order to allow for the execution of remote procedure calls by enabling entities at both ends of the message exchange to understand, identify, and parse the message format.

The combination of British Telecommunications PLC and Layman does not explicitly teach the use of JRMP.

However, Mathon teaches the method wherein the transport protocol comprises JRMP (Mathon, page 4, paragraphs 34 and 36).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of British Telecommunications PLC and Layman in view of Mathon in order to enable the use of JRMP. One would be motivated to do so in order to form messages by packing the information generated by B2B application programs in an extensible markup language envelope that incorporates the XML structure for routing and enhanced security.

48. Claims 17-19 and 38 are rejected under 35 U.S.C. 102(a) as being anticipated by British Telecommunications PLC in view of Idan (U.S. 2002/0170040).

49. With respect to claim 17, British Telecommunications PLC teaches the invention described in claim 16, including in a network router that routes an application generated message having an ordered forward message path including one or more application-layer intermediaries between a sender and a receiver, a computer implemented method for routing the message, comprising: (a) Receiving the message at a first application-layer intermediary corresponding to an application-layer intermediary at the beginning of the ordered forward message path; (b) processing the message by a first application provided by the first

application-layer intermediary; (c) when the ordered forward message path is not empty, forwarding the message to a second application-layer intermediary corresponding to the beginning of the ordered forward message path subsequent to step (b) (British Telecommunications PLC, page 11, lines 4-7); and when the forward message path list is empty, forwarding the message to the receiver (British Telecommunications PLC, page 11, lines 9-12).

British Telecommunications PLC does not explicitly teach an annotation service.

However, Idan teaches the method wherein the value-added service comprises an annotation service (Idan, page 4, paragraph 73).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify British Telecommunications PLC in view of Idan in order to enable the use of an annotation service. One would be motivated to do so in order to allow for users to collaborate with one another.

50. With respect to claim 18, British Telecommunications PLC teaches the invention described in claim 16, including in a network router that routes an application generated message having an ordered forward message path including one or more application-layer intermediaries between a sender and a receiver, a computer implemented method for routing the message, comprising: (a) Receiving the message at a first application-layer intermediary corresponding to an application-layer intermediary at the beginning of the ordered forward message path; (b) processing the message by a first application provided by the first application-layer intermediary; (c) when the ordered forward message path is not empty,

forwarding the message to a second application-layer intermediary corresponding to the beginning of the ordered forward message path subsequent to step (b) (British Telecommunications PLC, page 11, lines 4-7); and when the forward message path list is empty, forwarding the message to the receiver (British Telecommunications PLC, page 11, lines 9-12).

British Telecommunications PLC does not explicitly teach a collaboration service.

However, Idan teaches the method wherein the value-added service comprises a collaboration service (Idan, page 4, paragraph 77).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify British Telecommunications PLC in view of Idan in order to enable the use of a collaboration service. One would be motivated to do so in order to allow for users to collaborate with one another.

51. With respect to claim 19, British Telecommunications PLC teaches the invention described in claim 16, including in a network router that routes an application generated message having an ordered forward message path including one or more application-layer intermediaries between a sender and a receiver, a computer implemented method for routing the message, comprising: (a) Receiving the message at a first application-layer intermediary corresponding to an application-layer intermediary at the beginning of the ordered forward message path; (b) processing the message by a first application provided by the first application-layer intermediary; (c) when the ordered forward message path is not empty, forwarding the message to a second application-layer intermediary corresponding to the

beginning of the ordered forward message path subsequent to step (b) (British Telecommunications PLC, page 11, lines 4-7); and when the forward message path list is empty, forwarding the message to the receiver (British Telecommunications PLC, page 11, lines 9-12).

British Telecommunications PLC does not explicitly teach a subscription management service.

However, Idan teaches the method wherein the value-added service comprises a subscription management service (Idan, page 4, paragraph 73).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify British Telecommunications PLC in view of Idan in order to enable the use of a subscription management service. One would be motivated to do so in order to allow for users to collaborate with one another.

52. Claim 38 does not teach or define any new limitations above claim 18 and therefore is rejected for similar reasons.

53. Claims 20-23, 35-37, 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over British Telecommunications PLC and further in view of Kuzma (U.S. 5,771,355).

54. With respect to claim 20, British Telecommunications PLC teaches the invention described in claim 16, including in a network router that routes an application generated message having an ordered forward message path including one or more application-layer intermediaries between a sender and a receiver, a computer implemented method for routing the message, comprising: (a) Receiving the message at a first application-layer intermediary corresponding to an application-layer intermediary at the beginning of the ordered forward message path; (b) processing the message by a first application provided by the first application-layer intermediary; (c) when the ordered forward message path is not empty, forwarding the message to a second application-layer intermediary corresponding to the beginning of the ordered forward message path subsequent to step (b) (British Telecommunications PLC, page 11, lines 4-7); and when the forward message path list is empty, forwarding the message to the receiver (British Telecommunications PLC, page 11, lines 9-12).

British Telecommunications PLC does not explicitly teach privacy enforcement.

However, Kuzma teaches the method wherein the value-added service comprises a privacy enforcement service (Kuzma, col. 14, lines 15-23).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify British Telecommunications PLC in view of Kuzma in order to enable the use of privacy enforcement. One would be motivated to do so in order to allow PCs to communicate messages through the intermediary node of post office.

55. With respect to claim 21, British Telecommunications PLC teaches the invention described in claim 16, including in a network router that routes an application generated message having an ordered forward message path including one or more application-layer intermediaries between a sender and a receiver, a computer implemented method for routing the message, comprising: (a) Receiving the message at a first application-layer intermediary corresponding to an application-layer intermediary at the beginning of the ordered forward message path; (b) processing the message by a first application provided by the first application-layer intermediary; (c) when the ordered forward message path is not empty, forwarding the message to a second application-layer intermediary corresponding to the beginning of the ordered forward message path subsequent to step (b) (British Telecommunications PLC, page 11, lines 4-7); and when the forward message path list is empty, forwarding the message to the receiver (British Telecommunications PLC, page 11, lines 9-12).

British Telecommunications PLC does not explicitly teach a caching service.

However, Kuzma teaches the method wherein the value-added service comprises a caching service (Kuzma, col. 8, line 52 – col. 9, line 22).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify British Telecommunications PLC in view of Kuzma in order to enable the use of a caching service. One would be motivated to do so in order to allow PCs to communicate messages through the intermediary node of post office.

56. With respect to claim 22, British Telecommunications PLC teaches the invention described in claim 16, including in a network router that routes an application generated message having an ordered forward message path including one or more application-layer intermediaries between a sender and a receiver, a computer implemented method for routing the message, comprising: (a) Receiving the message at a first application-layer intermediary corresponding to an application-layer intermediary at the beginning of the ordered forward message path; (b) processing the message by a first application provided by the first application-layer intermediary; (c) when the ordered forward message path is not empty, forwarding the message to a second application-layer intermediary corresponding to the beginning of the ordered forward message path subsequent to step (b) (British Telecommunications PLC, page 11, lines 4-7); and when the forward message path list is empty, forwarding the message to the receiver (British Telecommunications PLC, page 11, lines 9-12).

British Telecommunications PLC does not explicitly teach an authentication service.

However, Kuzma teaches the method wherein the value-added service comprises an authentication service (Kuzma, col. 7, lines 15-36).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify British Telecommunications PLC in view of Kuzma in order to enable the use of an authentication service. One would be motivated to do so in order to allow PCs to communicate messages through the intermediary node of post office.

57. With respect to claim 23, British Telecommunications PLC teaches the invention described in claim 12, including in a network router that routes an application generated message having an ordered forward message path including one or more application-layer intermediaries between a sender and a receiver, a computer implemented method for routing the message, comprising: (a) Receiving the message at a first application-layer intermediary corresponding to an application-layer intermediary at the beginning of the ordered forward message path; (b) processing the message by a first application provided by the first application-layer intermediary; (c) when the ordered forward message path is not empty, forwarding the message to a second application-layer intermediary corresponding to the beginning of the ordered forward message path subsequent to step (b) (British Telecommunications PLC, page 11, lines 4-7); and when the forward message path list is empty, forwarding the message to the receiver (British Telecommunications PLC, page 11, lines 9-12).

British Telecommunications PLC does not explicitly teach traversing a firewall, NAT or proxy service.

However, Kuzma teaches the method wherein step (b) further includes traversing one of a firewall, a NAT, or a proxy service (Kuzma, col. 8, line 52 – col. 9, line 22).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify British Telecommunications PLC in view of Kuzma in order to enable the use of a firewall, NAT or proxy service. One would be motivated to do so in order to allow PCs to communicate messages through the intermediary node of post office.

58. With respect to claim 35, British Telecommunications PLC teaches the invention described in claim 34, including in a network router that routes an application generated message having an ordered forward message path including one or more application-layer intermediaries between a sender and a receiver, a computer implemented method for routing the message, comprising: (a) Receiving the message at a first application-layer intermediary corresponding to an application-layer intermediary at the beginning of the ordered forward message path; (b) processing the message by a first application provided by the first application-layer intermediary; (c) when the ordered forward message path is not empty, forwarding the message to a second application-layer intermediary corresponding to the beginning of the ordered forward message path subsequent to step (b) (British Telecommunications PLC, page 11, lines 4-7); and when the forward message path list is empty, forwarding the message to the receiver (British Telecommunications PLC, page 11, lines 9-12).

British Telecommunications PLC does not explicitly teach the use of a post office service.

However, Kuzma teaches the network router wherein the value-added services comprises a post office service (Kuzma, col. 5, lines 29-48).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify British Telecommunications PLC in view of Kuzma in order to enable the use of a post office service. One would be motivated to do so in order to allow PCs to communicate messages through the intermediary node of post office.

59. With respect to claim 37, British Telecommunications PLC teaches the invention described in claim 34, including in a network router that routes an application generated message having an ordered forward message path including one or more application-layer intermediaries between a sender and a receiver, a computer implemented method for routing the message, comprising: (a) Receiving the message at a first application-layer intermediary corresponding to an application-layer intermediary at the beginning of the ordered forward message path; (b) processing the message by a first application provided by the first application-layer intermediary; (c) when the ordered forward message path is not empty, forwarding the message to a second application-layer intermediary corresponding to the beginning of the ordered forward message path subsequent to step (b) (British Telecommunications PLC, page 11, lines 4-7); and when the forward message path list is empty, forwarding the message to the receiver (British Telecommunications PLC, page 11, lines 9-12).

British Telecommunications PLC does not explicitly teach encryption.

However, Kuzma teaches the network router wherein the value-added service comprises an encryption service (Kuzma, col. 7, lines 15-36).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify British Telecommunications PLC in view of Kuzma in order to enable the use of encryption. One would be motivated to do so in order to allow PCs to communicate messages through the intermediary node of post office.

60. Claims 36, 39, 40 do not teach or define any new limitations above claims 21-23 and therefore are rejected for similar reasons.

61. Claim 25 is rejected under 35 U.S.C. 102(a) as being anticipated by British Telecommunications PLC in view of Kimura (U.S. 5,778,189).

62. With respect to claim 25, British Telecommunications PLC teaches the invention described in claim 12, including in a network router that routes an application generated message having an ordered forward message path including one or more application-layer intermediaries between a sender and a receiver, a computer implemented method for routing the message, comprising:(a) Receiving the message at a first application-layer intermediary corresponding to an application-layer intermediary at the beginning of the ordered forward message path; (b) processing the message by a first application provided by the first application-layer intermediary; (c) when the ordered forward message path is not empty, forwarding the message to a second application-layer intermediary corresponding to the beginning of the ordered forward message path subsequent to step (b) (British Telecommunications PLC, page 11, lines 4-7); and when the forward message path list is empty, forwarding the message to the receiver (British Telecommunications PLC, page 11, lines 9-12).

British Telecommunications PLC does not explicitly teach the use of binding a message to two different protocols.

However, Kimura teaches the method wherein in step (a) the message is received bound to a first underlying protocol, and wherein in step (c) or (d) the message is sent bound to a second underlying protocol different from said first transport protocol (Kimura, col. 4, lines 52-67.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify British Telecommunications PLC in view of Kimura in order to enable binding a message to two different protocols. One would be motivated to do so in order to enable a first node using a first communications protocol to communicate with a second node using a second communications protocol.

63. Claims 26-28 are rejected under 35 U.S.C. 102(a) as being anticipated by British Telecommunications PLC in view of Kimura and further in view of Layman.

64. With respect to claim 26, British Telecommunications PLC teaches the invention described in claim 25, including in a network router that routes an application generated message having an ordered forward message path including one or more application-layer intermediaries between a sender and a receiver, a computer implemented method for routing the message, comprising:(a) Receiving the message at a first application-layer intermediary corresponding to an application-layer intermediary at the beginning of the ordered forward message path; (b) processing the message by a first application provided by the first application-layer intermediary; (c) when the ordered forward message path is not empty,

forwarding the message to a second application-layer intermediary corresponding to the beginning of the ordered forward message path subsequent to step (b) (British Telecommunications PLC, page 11, lines 4-7); and when the forward message path list is empty, forwarding the message to the receiver (British Telecommunications PLC, page 11, lines 9-12).

British Telecommunications PLC does not explicitly teach the use of binding a message to two different protocols.

However, Kimura teaches the method wherein in step (a) the message is received bound to a first underlying protocol, and wherein in step (c) or (d) the message is sent bound to a second underlying protocol different from said first transport protocol (Kimura, col. 4, lines 52-67.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify British Telecommunications PLC in view of Kimura in order to enable binding a message to two different protocols. One would be motivated to do so in order to enable a first node using a first communications protocol to communicate with a second node using a second communications protocol.

The combination of British Telecommunications PLC and Kimura does not teach the first protocol as TCP and the second as UDP.

However, Layman teaches the method wherein the first underlying protocol comprises TCP (British Telecommunications PLC, page 1, lines 17-28) and the second underlying protocol comprises UDP (Layman, col. 4, line 66 – col. 5, line 8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of British Telecommunications PLC and Kimura in view of Layman in order to enable the first protocol as TCP and the second as UDP. One would be motivated to do so in order to allow for the execution of remote procedure calls by enabling entities at both ends of the message exchange to understand, identify, and parse the message format.

65. With respect to claim 27, British Telecommunications PLC teaches the invention described in claim 25, including in a network router that routes an application generated message having an ordered forward message path including one or more application-layer intermediaries between a sender and a receiver, a computer implemented method for routing the message, comprising:(a) Receiving the message at a first application-layer intermediary corresponding to an application-layer intermediary at the beginning of the ordered forward message path; (b) processing the message by a first application provided by the first application-layer intermediary; (c) when the ordered forward message path is not empty, forwarding the message to a second application-layer intermediary corresponding to the beginning of the ordered forward message path subsequent to step (b) (British Telecommunications PLC, page 11, lines 4-7); and when the forward message path list is empty, forwarding the message to the receiver (British Telecommunications PLC, page 11, lines 9-12).

British Telecommunications PLC does not explicitly teach the use of binding a message to two different protocols.

However, Kimura teaches the method wherein in step (a) the message is received bound to a first underlying protocol, and wherein in step (c) or (d) the message is sent bound to a second underlying protocol different from said first transport protocol (Kimura, col. 4, lines 52-67.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify British Telecommunications PLC in view of Kimura in order to enable binding a message to two different protocols. One would be motivated to do so in order to enable a first node using a first communications protocol to communicate with a second node using a second communications protocol.

The combination of British Telecommunications PLC and Kimura does not teach the first protocol as UDP and the second as TCP.

However, Layman teaches the method wherein the first underlying protocol comprises UDP (Layman, col. 4, line 66 – col. 5, line 8) and the second underlying protocol comprises TCP (British Telecommunications PLC, page 1, lines 17-28).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of British Telecommunications PLC and Kimura in view of Layman in order to enable the first protocol as UDP and the second as TCP. One would be motivated to do so in order to allow for the execution of remote procedure calls by enabling entities at both ends of the message exchange to understand, identify, and parse the message format.

66. With respect to claim 28, British Telecommunications PLC teaches the invention described in claim 25, including in a network router that routes an application generated message having an ordered forward message path including one or more application-layer intermediaries between a sender and a receiver, a computer implemented method for routing the message, comprising:(a) Receiving the message at a first application-layer intermediary corresponding to an application-layer intermediary at the beginning of the ordered forward message path; (b) processing the message by a first application provided by the first application-layer intermediary; (c) when the ordered forward message path is not empty, forwarding the message to a second application-layer intermediary corresponding to the beginning of the ordered forward message path subsequent to step (b) (British Telecommunications PLC, page 11, lines 4-7); and when the forward message path list is empty, forwarding the message to the receiver (British Telecommunications PLC, page 11, lines 9-12).

British Telecommunications PLC does not explicitly teach the use of binding a message to two different protocols.

However, Kimura teaches the method wherein in step (a) the message is received bound to a first underlying protocol, and wherein in step (c) or (d) the message is sent bound to a second underlying protocol different from said first transport protocol (Kimura, col. 4, lines 52-67.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify British Telecommunications PLC in view of Kimura in order to enable binding a message to two different protocols. One would be motivated to do so in order to

enable a first node using a first communications protocol to communicate with a second node using a second communications protocol.

The combination of British Telecommunications PLC and Kimura does not teach the first protocol as TCP and the second as SMTP.

However, Layman teaches the method wherein the first underlying protocol comprises TCP (British Telecommunications PLC, page 1, lines 17-28) and the second underlying protocol comprises SMTP (Layman, col. 4, line 66 – col. 5, line 8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of British Telecommunications PLC and Kimura in view of Layman in order to enable the first protocol as TCP and the second as SMTP. One would be motivated to do so in order to allow for the execution of remote procedure calls by enabling entities at both ends of the message exchange to understand, identify, and parse the message format.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Baturay whose telephone number is (571) 272-3981. The examiner can normally be reached at M-Th 7:30 - 5pm, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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

Alicia Baturay
July 8, 2008

/Jeffrey Pwu/
Supervisory Patent Examiner, Art Unit 2146

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INTELLECTUAL PROPERTY- X100B
P.O. BOX 8097
Emeryville, CA 94662-8097

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In re Application of Creasy	:	
Application No. 10/270,478	:	On Application For
Filing Date: October 15, 2002	:	Patent Term Adjustment
Atty. Docket No. 012441.00027 (51906-US-NP)	:	

This is in response to the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. § 1.705(b)" filed November 17, 2009. Applicant submits the correct patent term adjustment to be indicated on the patent is one thousand three hundred eighteen (1,318) days, not four hundred fifty-one (451) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, an applicant may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the

amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

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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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MAY 27 2003

Office of the Director
Group 3600

Paper No. 4

Harrity & Snyder, L.L.P.
11240 Waples Mill Road
Suite 300
Fairfax, Virginia 22030

In re application of
Charles Fuqua.
Application No. 10/270,502
Filed: October 16, 2002
For: COLLAPSIBLE BALLISTIC SHIELD

DECISION ON PETITION TO MAKE SPECIAL (COUNTER TERRORISM)

This is in response to the petition filed on October 16, 2002 to make the above-identified application special on the basis of inventions for countering terrorism as set forth in MPEP § 708.02 XI.

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); and (B) a statement explaining how the invention contributes to countering terrorism.

Applicant's petition explains that the application "The foldable shield [of the present invention] may be rapidly deployed, for example, from the trunk of a police vehicle in situations where time is of the essence. Such rapid deployment and ready availability of ballistic shields for first responders increase their effectiveness in neutralizing terrorists and saving lives". It is argued that this inventive apparatus would counter terrorism by neutralizing terrorist activities such as the taking of hostages using firearms. This argument is not agreed with. Nothing in the invention acts to directly counter terrorism, but would appear to provide an improvement in enforcement personnel to protect themselves and bystanders from gunfire. Indeed, such a device would conceivably make it harder for terrorist to use firearms but the shield is used more as a protective device against any gunfire or for use as a reaction to gunfire. MPEP § 708.02 XI lists examples of types of inventions that would qualify as countering terrorism. While a grantable petition is not limited to these examples, these examples all clearly act to counter terrorism. Thus, the argument by the applicant is not seen as being sufficient to accord special status to this application.

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. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Petitioner should promptly submit such 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 any such renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

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

dxn/KJD : 5/20/03

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

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SEP 17 2004

OFFICE OF PETITIONS

In re Application of :
Brigitte Bathe et al :
Application No. 10/270,512 :
Filed: October 16, 2002 :
Attorney Docket No. 229008USOX :

ON PETITION

This is a decision on the petition, filed September 17, 2004, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 22, 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 1652 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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ALEXANDRIA VA 22314

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SEP 17 2004

OFFICE OF PETITIONS

In re Application of
Brigitte Bathe et al
Application No. 10/270,512
Filed: October 16, 2002
Attorney Docket No. 229008USOX

ON PETITION

This is a decision on the petition, filed September 17, 2004, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 22, 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 1652 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

RECEIVED: 9-21-04
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 9-9-2004
Type of Resp(s):
Due Date(s):

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

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1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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AUG 2 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Kenneth H. Elliott	:	
Application No. 10/270,526	:	DECISION ON PETITION
Filed: October 16, 2002	:	TO WITHDRAW
Attorney Docket No. 2449.0010001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 29, 2006.

The request is **APPROVED**.

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

The request was signed by Scott W. Cummings on behalf of all attorneys of record who are associated with customer No. 21839.

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

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed May 19, 2006 that requires a reply from the applicant.

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

Denise Pothier
Petitions Examiner
Office of Petitions

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Paper No.

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

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APR 13 2006
OFFICE OF PETITIONS

In re Patent No. 6,945,628	: DECISION ON REQUEST FOR
Koitabashi et al.	: RECONSIDERATION OF
Issue Date: September 20, 2005	: PATENT TERM ADJUSTMENT
Application No. 10/270,531	: and
Filed: October 16, 2002	: NOTICE OF INTENT TO ISSUE
Atty Docket No. 01272.020490.1	: CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed November 18, 2005. Patentees request that the patent term adjustment indicated in the patent be corrected from one hundred fifty-three (153) days to two hundred sixty-eight (268) days.

The request for reconsideration of patent term adjustment 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 revised Patent Term Adjustment of **one hundred forty-eight (148)** days.

On September 20, 2005, the above-identified application matured into U.S. Patent No. 6,945,628, with a revised patent term adjustment of 153 days. On November 18, 2005, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 268 days. Patentees dispute the reduction of 120 days for filing of a "Second Request for Consideration of Previously-filed Information Disclosure Statement," filed July 9, 2004. Patentees also disclose that the period of adjustment, pursuant to § 1.702(a)(4), for delay in issuing the patent should be 297 days, not 302 days.

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

A review of the application history reveals that the period of delay pursuant to § 1.702(a)(4) is 297 days. The date of payment of the issue fee and satisfaction of all outstanding requirements was July 27, 2004. Thus, the period of adjustment pursuant to § 1.702(a)(4) should have been calculated using the July 27, 2004 date, not a July 22, 2004. Accordingly, the period of adjustment

for this Office delay is 297 days, not 302 days (beginning on July 27, 2004, the day after the date that is four months after payment of the issue fee and satisfaction of all outstanding requirements and ending on September 20, 2005, the date of issuance of the patent).

However, the application history has been reviewed and it is concluded that under the circumstances the filing of the letter requesting return of an initialed IDS is properly considered "a failure to engage in reasonable efforts" to conclude processing or examination of an application and properly resulted in reduction of the patent term adjustment pursuant to 37 CFR 1.704(c)(10). It is undisputed that the letter filed July 9, 2004, was filed after the mailing of the Notice of Allowance, and thus, is properly a basis for reduction pursuant to § 1.704(c)(10). Moreover, the letter was filed subsequently to the examiner mailing a 1449 on June 15, 2004. A review of the record indicates that this mailing included initialization of the references, that were the subject of the letter filed July 9,, 2004.

In view thereof, the patent should have issued with a patent term adjustment of 148 days (297 days of applicant delay reduced by 120 + 29 days of applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **ONE HUNDRED FORTY-EIGHT (148)** days.

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 DRAFT Certificate of Correction

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Paper No.

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

COPY MAILED
NOV 22 2006
OFFICE OF PETITIONS

In re Application of	:	
Chuan-Ming Yeh	:	
Application No. 10/270,557	:	LETTER REGARDING
Filed: October 16, 2002	:	DEFICIENCY PAYMENT
Atty Docket No. 3313-0820P	:	

This is a notice regarding your letter entitled DEFICIENCY PAYMENT UNDER 37 CFR 1.28(c) filed September 29, 2006, notifying the Office of loss of entitlement to small entity status and requesting acceptance of a fee deficiency submission as provided for in 37 CFR 1.28.

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

The instant request included an itemization and payment of the deficiency in fees since loss of entitlement to small entity status.

However, it is noted that an extension of time for response within the first month at the small entity rate was filed on June 7, 2004. Petitioner has not included authorization for this payment in the deficiency. Clarification is required.

Petitioner is given one-month to respond to this letter. A proper response would include authorization to charge the deficiency in payment of the extension of time fee and any other fee erroneously paid at the small entity rate. Extensions of time under §1.136(a) are <u>not</u> obtainable.

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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Paper No.

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

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JAN 0 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Chuan-Ming Yeh	:	
Application No. 10/270,557	:	LETTER REGARDING
Filed: October 16, 2002	:	DEFICIENCY PAYMENT
Atty Docket No. 3313-0820P	:	

This is a notice regarding your letter entitled DEFICIENCY PAYMENT UNDER 37 CFR 1.28(c) filed September 29, 2006, notifying the Office of loss of entitlement to small entity status and requesting acceptance of a fee deficiency submission as provided for in 37 CFR 1.28.

Receipt of the DEFICIENCY PAYMENT UNDER 37 CFR 1.28(c) filed December 21, 2006 is also considered.

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.

Both requests taken together include an itemization and payment of the deficiency in all fees since loss of entitlement to small entity status.

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

Payment of the deficiency has been treated under § 1.27(g)(2) as a notification of a loss of entitlement to small entity status.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DICKSTEIN SHAPIRO MORIN & OSHINSKY
2101 L STREET NW
WASHINGTON, DC 20037-1526

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OCT 25 2005

OFFICE OF PETITIONS

In re Patent No. 6,840,937	:	
Issue Date: January 11, 2005	:	
Application No. 10/270,572	:	NOTICE
Filed: October 16, 2002	:	
Attorney Docket No. A8130.0128/P128	:	

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 Wan Laymon at (571) 272-3220.

This matter is being referred to Files Repository.

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

BLANK ROME COMISKY & MCCAULEY, LLP
900 17TH STREET, N.W., SUITE 1000
WASHINGTON DC 20006

COPY MAILED

JAN 28 2003

OFFICE OF PETITIONS

In re Application of Matsui, et al. Application No. 10/270,577 Filed: October 16, 2002 Attorney Docket No. 117042-00102 For: SINGLE-MODE OPTICAL FIBER AND COMPOSITE OPTICAL LINE	: : : : : : :	DECISION GRANTING PETITION

This is a decision on the petition entitled, "RESPONSE TO NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION," filed December 2, 2002, requesting, in effect, withdrawal of the Notice to File Omitted Item(s) in a Nonprovisional Application (Notice) . The petition will be treated under 37 CFR 1.53(e).

The application was deposited on October 16, 2002. On November 12, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that drawing figures 9A, 9B, and 10 described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that drawing figures 9A, 9B, and 10 be accorded a filing date of October 16, 2002 on the basis that 14 sheets of drawing figures, including drawing figures 9A, 9B, and 10, were received in the Patent and Trademark Office (PTO) on October 16, 2002. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing October 16, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 14 sheets of drawings. Only 12 sheets of drawings are present among the papers filed on October 16, 2002.

The return postcard constitutes *prima facie* evidence that 14 sheets of drawing figures, including drawing figures 9A, 9B and 10, were filed on October 16, 2002. MPEP 503. Accordingly, the request is granted.

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

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **October 16, 2002**, using the copy of drawing figures 9A, 9B, and 10 submitted with the instant petition. Office records will be corrected to show that 14 sheets of drawings were present on filing.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

NOV 29 2004

OFFICE OF PETITIONS

In re Application of	:	
Tse-Hsiang Hsu, et al.	:	
Application No. 10/270,597	:	ON PETITION
Filed: October 16, 2002	:	
Attorney Docket No. SUND 415	:	

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

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

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

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

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

MAILED

FEB 18 2010

OFFICE OF PETITIONS

In re Patent No. 7,636,932

Issue Date: December 22, 2009

Application No. 10/270,605

Filed: October 16, 2002

Attorney Docket No. P22254

ON PETITION

This is a decision on the petition filed December 14, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

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MAY 03 2005
OFFICE OF PETITIONS

In re Application of
Toshifumi Takaoka, et al.
Application No. 10/270,670
Filed: October 16, 2002
Attorney Docket No. 113334

ON PETITION

This is a decision on the petition, filed May 2, 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 April 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 3618 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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Fernandez & Associates, LLP
1047 El Camino Real
Suite 201
Menlo Park, CA 94025

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NOV 27 2009

OFFICE OF PETITIONS

In re Application of
Erlend Olson
Application No. 10/270,706
Filed: October 10, 2002
Attorney Docket No. ZOBI-P004

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b), or 10.40 filed August 27, 2009.

The request is **NOT APPROVED**.

The request cannot be approved because the attorney cannot withdraw practitioners associated with customer number 22877, when the Oath/Declaration and Power of Attorney filed on October 10, 2002 originally granted power to the attorneys/agents individually.

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

There is an outstanding Office action mailed August 3, 2009, that requires a reply from the applicant.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Erlend Olson
P.O. Box 10939
Newport Beach, CA 92658

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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FERNANDEZ & ASSOCIATES, LLP
P.O. BOX D
MENLO PARK, CA 94026

MAILED

MAY 24 2010

OFFICE OF PETITIONS

In re Application of
Erlend Olson
Application No. 10/270,706
Filed: October 10, 2002
Attorney Docket No. ZOBI-P004

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 37 CFR 10.40, filed March 5, 2010.

In response to the decision mailed November 27, 2009, petitioner submits the present renewed petition to contain a clear indication that Dennis Fernandez and all the attorneys/agents of record intend to withdraw from the above application.

The request is **APPROVED**.

The request was signed by Dennis Fernandez on behalf of himself and all attorneys/agents of record. Therefore, Dennis Fernandez and all attorneys/agents of record have been withdrawn.

Applicant is reminded that there are no attorneys/agents of record at this time.

The above application became abandoned for failure to respond to the Office action mailed August 3, 2009. A Notice of Abandonment was mailed on March 1, 2010.

All future communications from the Office will be directed to the sole inventor at the address listed below until otherwise properly notified by the applicant.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Erlend Olson
P.O. Box 10939
Newport Beach, CA 92658

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
10/270,706	10/10/2002	Erlend Olson	ZOBI-P004

CONFIRMATION NO. 7138

POWER OF ATTORNEY NOTICE

22877
FERNANDEZ & ASSOCIATES, LLP
P.O. BOX D
MENLO PARK, CA 94026

OC000000041596097

Date Mailed: 05/12/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/05/2010.

- 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.

/amsmith/

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/20/05

TO SPE OF : ART UNIT **1654**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/270707 6740638

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

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

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

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

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

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

Comments:

BRUCE R. CAMPELL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE **Art Unit** 1654

UNITED STATES PATENT AND TRADEMARK OFFICE

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MILLEN, WHITE, ZELANO & BRANIGAN
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

In re Application of	:	
Ruiping Liu et al	:	
Application No. 10/270,724	:	ON PETITION
Filed: October 16, 2002	:	
Attorney Docket No. MEMORY-3	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 12, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1626 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 02-05

Paper No: __

ANTHONY HARRIS
224 SOUTH HALEY ST
BAKERSFIELD CA 93307

COPY MAILED

FEB 11 2005

OFFICE OF PETITIONS

In re Application of
Harris :
Application No. 10/270,736 :
Filing Date: 16 October, 2002
Attorney Docket No. (None) :

This is a decision on the petition filed on 5 January, 2005, alleging unavoidable delay under 37 C.F.R. §1.137(a).

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.137(a) is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.137(a) (as to unavoidable delay) or an alternative request for relief under 37 C.F.R. §1.137(b)[1] (as to unintentional delay) must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R.

[1] Effective December 1, 1997, the provisions of 37 C.F.R. §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 C.F.R. §1.137(b). a grantable petition filed under the provisions of 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 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 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. 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 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

§1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)"; and/or "Petition under 37 C.F.R. §1.137(b)";

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

BACKGROUND

NOTE: Petitioner's submissions suggest a lack of familiarity with practice before the Office. Petitioner may wish to seek the guidance of an individual registered to practice before the Office, which information may be found at www.uspto.gov.

The record reflects that:

- a non-final Office action was mailed on 22 September, 2004, with reply due absent a request and fee for an extension of time on 22 December, 2004;
- when Petitioner failed to respond timely and properly to that Office action the application went abandoned after midnight 22 December, 2004;
- in 27 December, 2004, Petitioner filed a communication which appears to be a new specification, rather than an amendment in proper form (see: MPEP §714 (http://www.uspto.gov/web/offices/pac/mpep/documents/0700_714.htm#sect714)).
- as to the "showing" required under the regulation, Petitioner states only: "I sent the response to the address on the bottom of the forms as always, but it appears there is another address to send special mail handling outside of the US post (sic) Office";
- Petitioner attaches a copy of his Federal Express shipping air bill, which contains the following express statement directly beneath the line for Recipient's Address: "We cannot deliver to P.O. boxes or P.O. ZIP codes" (emphasis supplied);
- nonetheless, Petitioner addressed his package to: "P.O. Box 1450, Alexandria VA 22313-1450."

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.

(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]))

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a showing of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Petitioner has failed to satisfy the "showing" and "reply" requirements of the regulation.

Petitioner should familiarize himself with the provisions and operation(s) of 37 C.F.R. §1.8 and §1.10, as well as with the commentary at MPEP §503 with regard to the use of receipt cards.

---

[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.

[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.

CONCLUSION

In the absence of the proper showing, required fee and proper reply in the form of an amendment submitted as a separate paper, the instant petition under 37 C.F.R. §1.137(a) hereby is **dismissed**.

ALTERNATIVE VENUE

It appears that Petitioner will be unable to make a showing of unavoidable delay. Petitioner's only alternative to irretrievable abandonment is to file a petition under 37 C.F.R. §1.137(b) (state therein 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").

Thus, Petitioner may wish to supplement the petition to plead alternatively under 37 C.F.R. §1.137(b) wherein the "showing" burden is much less onerous.

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

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

By FAX: IFW Formal Filings
(703) 872-9306
ATTN.: Office of Petitions

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 07-05

Paper No: __

ANTHONY HARRIS
224 SOUTH HALEY ST
BAKERSFIELD CA 93307

COPY MAILED

JUL 1 5 2005

OFFICE OF PETITIONS

In re Application of
Harris :
Application No. 10/270,736 :
Filing Date: 16 October, 2002
Attorney Docket No. (None) :

This is a decision on the renewed petition filed on 9 April, 2005, alleging unavoidable delay under 37 C.F.R. §1.137(a).

Petitioner's submissions suggest a lack of familiarity with practice before the Office. Petitioner may wish to seek the guidance of an individual registered to practice before the Office, which information may be found at www.uspto.gov.

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.137(a) is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.137(a) (as to unavoidable delay) or an alternative request for relief under 37 C.F.R. §1.137(b)[1] (as to unintentional delay) must be submitted within two (2)

[1] Effective December 1, 1997, the provisions of 37 C.F.R. §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 C.F.R. §1.137(b). a grantable petition filed under the provisions of 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 an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion

months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)"; and/or "Petition under 37 C.F.R. §1.137(b)";

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

BACKGROUND

The record reflects that:

- a non-final Office action was mailed on 22 September, 2004 (copy enclosed with this decision), with reply due absent a request and fee for an extension of time on 22 December, 2004;

- when Petitioner failed to respond timely and properly to that Office action the application went abandoned after midnight 22 December, 2004;

- Petitioner filed:

  –on 27 December, 2004, a communication which appeared to be a new specification, rather than an amendment in proper form (**see: MPEP §714 (http://www.uspto.gov/web/offices/pac/mpep/documents/0700_714.htm#sect714)**);

  –on 5 January, 2005, Petitioner filed a one- (1-) sentence document as to the "showing" required under the regulation, and stated only: "I sent the response to the address on the bottom of the forms as always, but it appears there is another address to send special mail handling outside of the US post (sic) Office"; and attached a copy of his Federal Express shipping air bill, which contains the following express statement directly beneath the line for Recipient's Address: "We cannot deliver to P.O. boxes or P.O. ZIP codes" (emphasis supplied); nonetheless, Petitioner addressed his

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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 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. 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 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

package to: "P.O. Box 1450, Alexandria VA 22313-1450," and the shipment could not be delivered;

- for failure to satisfy the "showing" and "reply" requirements of the regulation, the 5 January, 2005, petition was dismissed on 11 February, 2005;

- Petitioner's 9 April, 2005, petition alleges unavoidable delay, makes a statement of unintentional delay, and Petitioner paid an insufficient fee (i.e., $55.00, rather than $250.00 for unavoidable delay or $70.00 for unintentional delay), and the extent of Petitioner's showing is that he spoke with shipping personnel on two (2) occasions and once he was told that deliveries could not be made to post office box addresses, and once he was told that possible delays in delivery occurred due to holiday shipping back-ups.

Clearly Petitioner cannot make a satisfactory showing as to unavoidable delay and his only alternative is to file a petition alleging unintentional delay (form enclosed), pay the required fee ($750.00 as of this writing, however, Petitioner always should review the then-current fee schedule at www.uspto.gov).

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

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[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).

a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a showing of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Once again, Petitioner has failed to satisfy the "showing" and "reply" requirements of the regulation.

CONCLUSION

In the absence of the proper showing, required fee and **proper reply in the form of an amendment submitted as a separate paper**, the instant petition under 37 C.F.R. §1.137(a) hereby is **dismissed**.

ALTERNATIVE VENUE

It appears that Petitioner will be unable to make a showing of unavoidable delay. Petitioner's only alternative to irretrievable abandonment is to file a petition under 37 C.F.R. §1.137(b) (state therein 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").

Thus, Petitioner may wish to supplement the petition to plead alternatively under 37 C.F.R. §1.137(b) wherein the "showing" burden is much less onerous. **However, Petitioner is reminded that he also must file a and proper reply in the form of an amendment submitted as a separate paper, the instant petition under 37 C.F.R. §1.137(b)**.

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[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Further correspondence with respect to this matter should be addressed as follows:[8]

By mail: Commissioner for Patents[9]
P.O. Box 1450
Alexandria, VA 22313-1450

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

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

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

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

Encl:

Form: Petition under 37 C.F.R. §1.137(b)
Form: Credit Card Payment
Copy: 22 September, 2004, non-final Office action

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[8] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[9] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 01-06

Paper No: __

COPY MAILED

JAN 13 2006

OFFICE OF PETITIONS

ANTHONY HARRIS
224 SOUTH HALEY ST
BAKERSFIELD CA 93307

In re Application of
Harris :
Application No. 10/270,736 :
Filing Date: 16 October, 2002
Attorney Docket No. (None) :

This is a decision on the renewed petition filed on 7 October, 2005, alleging unintentional delay under 37 C.F.R. §1.137(b).

NOTE: **Petitioner's submissions suggest a lack of familiarity with practice before the Office. Petitioner may wish to seek the guidance of an individual registered to practice before the Office, which information may be found at www.uspto.gov.**

Petitioner specifically should review the rules at also should review the rules at http://www.uspto.gov/web/offices/pac/mpep/documents/appxr.htm, particularly at 37 C.F.R. §1.8.

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:

- a non-final Office action was mailed on 22 September, 2004, with reply due absent a request and fee for an extension of time on 22 December, 2004;
- while Petitioner filed on 27 December, 2004, a specification indicating contents of

description, claims and abstract, he did so without an extension of time and/or a certificate of mailing;

- when Petitioner failed to respond timely and properly to that Office action the application went abandoned after midnight 22 December, 2004;
- Petitioner's original petition, filed on 5 January, 2005, was dismissed on 11 February, 2005, for deficiencies including but not limited to a failure to satisfy the regulatory requirement as to a showing of unavoidable delay, as was Petitioner's 9 April, 2005, petition on 15 July, 2005;
- the Office mailed a Notice of Abandonment on 11 August, 2005;
- Petitioner filed on 7 October, 2005, the instant petition (with fee) alleging unintentional, makes a statement of unintentional delay and a specification, filed (without an extension of time and/or a certificate of mailing) 27 December, 2004, indicates contents of description, claims and abstract.

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

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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).

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]))

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement of unintentional delay, a reply, and–where appropriate--a terminal disclaimer and fee.

Petitioner appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b).

CONCLUSION

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

The instant application is released to 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

Encl.: PTO/SB/21, PTO/SB/92, PTO/SB/97 (Transmittal Form, Certificate of Mailing, Certificate of Transmission)

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[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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

MAY 20 2005

OFFICE OF PETITIONS

In re Application of	:	
Murthy et al	:	
Application No. 10/270,742	:	DECISION GRANTING PETITION
Filed: October 11, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. DIAKR.055A	:	

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement of May 21, 2004, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1654.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/20/2010

Applicant	: Shozo Nitta	: DECISION ON REQUEST FOR
Patent Number	: 7576594	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/270,746	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/15/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **26** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Weaver Austin Villeneuve & Sampson LLP - IGT
Attn: IGT
P.O. Box 70250
Oakland, CA 94612-0250

Mail Date: 04/20/2010

Applicant	: Bryan Wolf	: DECISION ON REQUEST FOR
Patent Number	: 7611405	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/270,766	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/15/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **829** 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

Robert T. Bailey
P.O. Box 9740
Alpine TX 79831

COPY MAILED
JUN 23 2006
OFFICE OF PETITIONS

In re Application of
Robert Texas Bailey
Application No. 10/270,767
Filed: January 22, 2003
Title of Invention: **JOHN MCARTHUR BAILEY MEMORIAL SYNTHETIC SUGAR AND FOSSIL FUELS (SYNTHETIC OIL) PROCESS**

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed April 3, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

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

A non-Final Office Action was mailed March 29, 2005. A response was due not later than June 29, 2005. No response having been filed, this application became abandoned June 30, 2005. Accordingly, a Notice of Abandonment was mailed October 4, 2005.

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. 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 § 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 paragraph (c) of this section.

This petition lacks item (3), above.

SHOWING OF UNAVOIDABLE DELAY

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.[1]

With regard to item (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.

Aside from the fact that the petition was filed under the unavoidable delay standard, petitioner does not provide much of an explanation as to why the response to the non-Final Office Action was not timely filed and why therefore the delay in doing so was unavoidable. In the space provided on the petition form for petitioner to explain in detail

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

the reasons for the delay in filing a proper reply, petitioner only states, "A Great Revelation had to take place to understand what was going on". The Patent Application is right, they just didn't get it".

Thus, the showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[3], which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

It should be noted that if petitioner chooses to file a petition under 37 CFR 1.137(b), the

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[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[3] 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)).

fee for a small entity is set at $750.00 and the $250.00 paid for the unavoidable petition under 37 CFR 1.137(a) will not be credited towards that payment. Petitioner has already received consideration under that standard and the fees are not transferable.

It is further noted that the instant petition was filed with fees in the amount of $400.00. However, the fee for a petition under 37 CFR 1.137(a) is set at $250.00. A refund was in the amount of $150.00 was issued to petitioner on April 4, 2006.

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

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

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

Telephone inquiries 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. 17

Date : March 12, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 10/270,771**

Applicant(s) : Petrus Antonius Besselink
Application No. : 10/270,771
Filed : October 11, 2002

The above-identified application has been assigned Patent No. 6,706,063 and an issue date of March 16, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of March 16, 2004:

> **"All reference to Patent No. 6,706,063 to Petrus Antonius Besselink of the Netherlands for BISTABLE SPRING CONSTRUCTION FOR A STENT AND OTHER MEDICAL APPARATUS appearing in the Official Gazette of March 16, 2004 should be deleted since no patent was granted."**

Frances Hicks
Frances Hicks
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)
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Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

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Paper No. 16

NICOLA A. PISANO
LUCE FORWARD HAMILTON AND SCRIPPS
11988 EL CAMION REAL, SUITE 200
SAN DIEGO, CA 92130

COPY MAILED

MAR 12 2004

OFFICE OF PETITIONS

In re Application of	:	
Petrus Antonius Besselink	:	
Application No. 10/270,771	:	DECISION GRANTING PETITION
Filed: October 11, 2002	:	UNDER 37 CFR 313(c)(2)
Attorney Docket No. S63.2-6725	:	

This is a decision on the petition, filed March 10, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 3731 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed submissions.

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).

FORM PTO-302
(REV. 12-87)

DEPARTMENT OFCOMMERCE
PATENT AND TRADEMARK OFFICE

PATENT WITHDRAWAL NOTICE

DATE
11-Mar-04

13138

The following **WITHDRAWAL** and **SUBSTITUTION,** where appropriate, has been made in the issue of Tuesday, March 16, 2004

WITHDRAWAL	SUBSTITUTION
SERIAL NO. 10/270,771	SERIAL NO.
PATENT NUMBER 6,706,063	PATENT NUMBER
DRAWINGS 014	DRAWINGS
CLASS 623/001	CLASS
NAME AND ADDRESS PETRUS ANTONIUS BASSELINK ENSCHESE,NETHERLANDS	NAME AND ADDRESS
ASSIGNEE	ASSIGNEE
TITLE BISTABLE SPRING CONSTRUCTION FOR A STENT AND OTHER MEDICAL APPARATUS	TITLE

APPROVED

Mary Louise McAskill, Manager
Statistical Analysis Division

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Paper No.12

TREXLER, BUSHNELL, GIANGIORGI,
BLACKSTONE & MARR. LTD.
105 WEST ADAMS STREET
SUITE 3600
CHICAGO IL 60603

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JUL 1 3 2004

OFFICE OF PETITIONS

In re Application of
Scott Robert Mackie et al
Application No. 10/270,805
Filed: October 15, 2002
Attorney Docket No. 1171/39624C/92C-CIP

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 16, 2003, 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;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

---

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

The instant pending application was filed on October 15, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

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

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

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

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

This application is being forwarded to Technology Center Art Unit 1654 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed nonprovisional Application No. 09/808,567, filed March 14, 2001.

Karen Creasy

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

ATTACHMENT: Corrected Filing Receipt

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AUG 30 2005

INTERNATIONAL ENGINE INTELLECTUAL
PROPERTY COMPANY
4201 WINFIELD ROAD
P.O. BOX 1488
WARRENVILLE, IL 60555

In re Application of	:	
Jeremy Bernard et al	:	DECISION ON PETITION
Application No. 10/270,862	:	UNDER 37 CFR §1.181
Filed: October 15, 2002	:	
Attorney Docket No.: D5353	:	
For: DAMPER ASSEMBLY WITH	:	
REINFORCING PLATE	:	

This is a decision on applicants' petition under 37 CFR 1.181 filed July 14, 2005 to invoke supervisory review of the final Office action mailed April 20, 2005.

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

The record reflects that on April 20, 2005 an Office action was mailed indicating that: (1) the proposed drawing corrections filed January 18, 2005 were unacceptable as they introduced new matter; (2) the original drawings were objected to for various formalities; (3) the original drawings were objected to under 37 CFR 1.83(a); (4) claims 11-19 were objected to for various informalities; (5) claim 20 was rejected under 35 U.S.C. 112, second paragraph; (6) claims 1-6, 8, 9, 11-15, 17 and 18 were rejected under 35 U.S.C. 102; (7) claims 7 and 16 were rejected under 35 U.S.C. 103; (8) claims 10 and 19 were objected to as being dependent from a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims; and (9) claim 20 was indicating as being allowable if rewritten to overcome the rejection under 35 U.S.C. 112, second paragraph.

Applicants first argue that the new matter issues raised by the examiner with respect to the proposed drawing corrections filed January 18, 2005 are not proper. Specifically, applicants argue: (1) that the addition of the shaft 407 and engine 409 to Fig. 4 are made in cross section in generally rectangular form and supported by the specification and claims as originally filed; and (2) that the cylindrical dowel pin 601 added to Fig. 6 was simply brought out instead of being flush.

37 CFR 1.181(f) states: The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provide. This two-month period is not extendable

37 CFR 1.83(a) states the drawing in a nonprovisional application must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (e.g., a labeled rectangular box).

MPEP 608.04(a) sets forth that matter not in the original specification, claims, or drawings is usually new matter. With respect to addition of the shaft 407 to Fig. 4, in the instant application: (1) page 1 and claim 1 of the originally filed disclosure state that the "bolts are insertable through the plurality of mounting holes in the reinforcing plate and through the plurality of mounting holes in the hub and into the nose of the shaft"; (2) page 3 of the originally filed specification states that "the pilot 103 serves as a guide to align the hub 101 axially to the nose of the shaft (not shown)"; and (3) page 5 of the originally filed specification states that "the nose of the shaft fits into the underside of the pilot". However, the originally filed specification does not describe nor illustrate the size and shape of the shaft. The proposed drawing correction filed January 18, 2005 illustrates not only a nose of a shaft, i.e., that portion of the shaft which fits into the underside of the pilot, but also the shaft which extends from the nose of the shaft to the engine. Therefore the entire shaft 407 added to the proposed Fig. 4 filed January 18, 2005 is more detailed than the originally filed specification and is considered to be new matter. Next, applicants argue that the addition of engine 409 to Fig. 4 is not new matter. Since the originally filed specification merely states that the shaft is connected to the engine and provides no specific size or shape of the engine the addition of the engine as illustrated in Fig.4 is considered to be new matter. The third new matter objection raised by the examiner is whether or not the dowel 601 added to Fig. 6 is new matter. As one of ordinary skill in the art would understand the concept of a dowel being inserted in the dowel hole the addition of this element is not considered to be new matter.

While the proposed modifications to Fig. 4 are considered to be new matter it is noted that applicants could overcome these new matter objections by illustrating a nose of a shaft inserted into the pilot recess 103 with a wavy line across the shaft width at the end of the pilot recess and a further line connecting the end of the nose of the shaft to a rectangular box labeled as an engine.

Applicants further request supervisory review of the rejections set forth in the final Office action mailed April 20, 2005 and rely upon the arguments filed June 20, 2005 in support thereof. Applicants state that the rejections are improper because: (1) the reference to Allport describes a shaft that fits inside a central cavity that is encompassed by a

cylindrical wall referred to as a central hub 15 for the purpose of driving a piece of equipment, such as a fan; (2) that the reference does not describe a hub including a guide in which a plurality of mounting holes are formed in a fixed pattern, wherein the guide is axially alignable to or engages a shaft; (3) the shaft of the reference goes into hole 14/114 and the fasteners do not go into this hole; and (4) that the examiner's modification of Fig. 8 of the reference illustrating a huge shaft expanded to touch the support ring 28 is beyond the explicit and inherent teaching of the reference as such placing the shaft outside the central hub 15 is contrary to the teachings of placing the shaft in the central aperture 114. It is noted that each of the independent claims of the application requires among other things that the "bolts are insertable through the plurality of mounting holes in the reinforcing plate and through the plurality of mounting holes in the hub and into the nose of the shaft". As the reference to Allport does not teach a shaft that extends outside of the hole 14/114, the bolts of Allport that extend through mounting hole of the hub would not be insertable into the nose of the shaft of Allport. Therefore, the rejections set forth in the final Office action mailed April 20, 2005 are improper.

The rejections set forth in the final Office action mailed April 20, 2005 are hereby vacated.

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

Robert J. Oberleitner, Director
Patent Technology Center 3600
(571) 272-5350

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1601 MARKET STREET
SUITE 2400
PHILADELPHIA, PA 19103-2307

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FEB 28 2005

OFFICE OF PETITIONS

In re Application of	:	
J. Kenneth Wittle, et al.	:	
Application No. 10/270,892	:	ON PETITION
Filed: October 15, 2002	:	
Attorney Docket No. 0044-P00910US4	:	

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed July 27, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 28, 2004.

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

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

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

Retta Williams

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

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ST ONGE STEWARD JOHNSTON & REENS LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

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MAR 16 2009

OFFICE OF PETITIONS

In re Patent No. 6,857,203	:	
Issue Date: February 22, 2005	:	
Application No. 10/270,909	:	DECISION ON PETITION
Filed: October 15, 2002	:	
Attorney Docket No. 01179-P0018B	:	
SPM/NRJ		

This is a decision on the "Petition Requesting the Requirements of 37 C.F.R. 3.81 To Be Waived (37 C.F.R. 1.183)", filed January 14, 2009.

The petition is **GRANTED**.

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

---

[1] See 37 CFR 3.81.

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

The $100 fee for the Certificate of Correction has been charged to Deposit Account No. 19-4516, as authorized.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

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Womble Carlyle Sandridge & Rice
ATTN: Patent Docketing
PO Box 7037
Atlanta, GA 30357-0037

In re Application of
Alred et al.
Application No. 10/270,918
Patent No. 6,955,917
Filed: October 15, 2002
Attorney Docket No. B185 1072.1

: DECISION GRANTING PETITION

This decision is in response to Applicants' "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED ON PATENT ISSUED UNDER 37 CFR 1.705(D)" timely[1] filed on November 16, 2004 requesting that the Patent Term Adjustment be adjusted from twenty-eight (28) days to an amount of one hundred and twenty-seven (127) days.

Applicants' petition is **GRANTED**. The Office will *sua sponte* issue a certificate of correction reflecting an adjustment of 127 days rather than the 28 day amount printed on the front of the patent. In addition, the Office will adjust the PTA calculation displayed in PAIR to reflect this decision.

Applicants argue that the Office erred in asserting an applicant delay of ninety-nine (99) days for the submission of drawings after the mail date of the notice of allowance . Applicants assert that the drawings submission prior to the notice of allowance and the PALM entry of drawings on September 16, 2005 is inaccurate.

Applicants' arguments are persuasive. A review of the file reflects that drawings were filed on October 15, 2002 not September 16, 2005. Accordingly, the ninety-nine (99) day reduction is in error because applicant did not fail to engage in any reasonable efforts to conclude prosecution of the application pursuant to 37 CFR 1.704(c)(10). Accordingly, the proper amount of PTA at the time of the issuance of the patent is one hundred and twenty-seven (127) days as asserted by applicants.

After review of this decision, this patented file will be forwarded to the certificate of correction branch for a prompt issuance of a certificate of correction.

---

[1]Patent issue date October 18, 2005

Application No.10/270,918

The Office will assess the $200.00 (petition). A telephone call between Kery Fries and Carl Massey on Sunday, June 25, 2005 provided Mr. Fries the authorization to charge the $200.00 fee to deposit account 09-0528.

Any questions concerning the issuance of this patent should be directed to Kery A. Fries, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy 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

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,955,917 B2

DATED : Oct. 18, 2005

INVENTOR(S) : Alred 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 (28) days

Delete the phrase "by 28 days" and insert – by 127 days--

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

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JAN 13 2005

OFFICE OF PETITIONS

In re Application of :
David J. Baldwin et al. :
Application No. 10/270,921 : ON PETITION
Filed: October 15, 2002 :
Attorney Docket No. TI-34275 :

This is a decision on the petition filed November 26, 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 30, 2004 for failure to timely pay the issue fee on or before October 29, 2004. The instant petition and petitions decision precede the mailing of the Notice of Abandonment.

The issue fee, petition fee and publication fee, have been charged to deposit account no. 20-0668. 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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225 SOUTH LAKE AVENUE
9TH FLOOR
PASADENA, CA 91101

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FEB 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Dwain E. Morse, et al.	:	
Application No. 10/270,926	:	ON PETITION
Filed: October 14, 2002	:	
Attorney Docket No. 17002	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed July 27, 2006, to revive the above-identified application.

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

The petition is **GRANTED**.

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

It is noted that petitioner submitted an extension of time with the present petition. Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, the extension fees submitted with the present petition are being credited to counsel's deposit account.

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

The application file is being forwarded to Technology Center AU 1753, for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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100 Corson Street
Third Floor
PASADENA CA 91103-3842

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OFFICE OF PETITIONS

In re Application of	:	
Morse et al.	:	
Application No. 10/270,926	:	ON PETITION
Filed: October 14, 2002	:	
Attorney Docket No. 17002	:	

This is in response to the petition under 37 CFR 1.183, filed November 7, 2007, on behalf of Dwain E. Morse and Jerry Friedman, requesting waiver of the requirements of 37 CFR 1.32(b)(4).

The petition is **DISMISSED**.

Petitioners, Dwain E. Morse and Jerry Friedman, request the USPTO to: (1) appoint both the attorneys of Kelly Lowry & Kelly, LLP, Customer No. 26252, and the attorneys of Sheldon Mak Rose & Anderson, Customer No. 23676, as their representatives before the USPTO; and (2) waive the single signature requirements of Rule 1.32(b)(4) due to divergent interests in the subject matter of the instant application.

The application as filed named Dwain E. Morse, Wade O. Morse and Thomas G. Matherly as inventors. All three of the inventors gave Power of Attorney to the following six practitioners: Scott W. Kelley, Reg. No. 30,762; John E. Kelly, Reg. No. 24,269; John D. Bauersfeld, Reg. No. 24,496; Stuart O. Lowry, Reg. No. 26,563; Matthew Spark, Reg. No. 43,453; and Aaron T. Borrowman, Reg. No. 42,348. Inventorship is the starting point for determining ownership. *See University Patents, Inc. v. Kligman*, 762 F. Supp. 1212, 1218-19, 20 USPQ2d 1401, 1405 (E.D. Pa. 1991). Unless there is an assignment, the USPTO will presume the named inventor(s) to be the owner(s), see 37 CFR 3.73(a). The assignment records indicate at reel 013393 frame 0695 that Dwain E. Morse, Wade O. Morse and Thomas G. Matherly assigned their rights to Dwain E. Morse and Jerry Friedman. This suggests that Dwain E. Morse has one-half interest in the instant application and Jerry Friedman has one-half interest in the instant application. However, USPTO assignment records indicate, at reel 020279 frame 0206 and reel 018989 frame 0581 respectively, that Dwain E. Morse and Jerry Friedman each assigned their entire right, title and interest in the instant application to Clean Water Technology, Inc. (CWT). This suggests that

CWT owns the entire right, title and interest in the instant application, which would make the requested waiver and appointment of new attorneys by less than the entire interest in the instant application inappropriate.

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. Also, 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. Therefore, due to the inconsistencies in the assignees described in the petition and the assignee suggested by USPTO records, petitioners are requested to clarify their current authority to request the waiver and change the Power of Attorney in the instant application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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SEP 9 2005

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801 Grand Avenue, Suite 3200
Des Moines, Iowa

In re Application of
Stephens et al
Serial No. : 10/270,932
Filed : October 15, 2002
Attorney Dkt No. : P05828US01-PHI 1453 E

Decision on Petition

This letter is in response to the Petition under 37 C.F.R. 1.113, filed on April 29, 2005, to request reconsideration of the objection to the deletion of the original Tables 1 and 2 as constituting new matter. The delay in acting on this petition is regretted.

BACKGROUND

A review of the file history shows that the application was filed on October 15, 2002 with 32 claims drawn to a soy bean plant and methods of producing said soy bean plant, and seeds thereof. In a preliminary amendment dated October 10, 2003, applicants amended claim 1, cancelled claims 2-32 and added new claims 33-39 to same subject matter.

On July 14, 2004, an office action was sent to applicants in which all claims were provisionally rejected under double patenting for claiming the same thing as copending application 10/271,115.

Applicants responded to this office action with an amendment to tables 1 and 2 which described various characteristics of the claimed soy bean plant, stating that through inadvertent clerical error the data and tables of the nonprovisional application for 93B09 (the instant application) contained the data and tables for the incorrect variety, 93B68. Applicants further state that the correct tables for 93B09 were properly presented in the provisional application 60/353,106, filed January 29, 2002, which applicants properly claim the benefit of and incorporation by reference of.

On January 31, 2005, the office responded to applicants amendment and comments by maintaining the double patenting rejection and objecting to the deletion of the Tables 1 and 2 as constituting new matter because it changes the description for 93B09, stating that "the introduction of tables 1-2 from provisional application 60/353,106 into the instant application is not new matter, because benefit is properly claimed; the new matter is deletion of the information from the nonprovisional."

Applicants subsequently filed a request for reconsideration (RCE), along with the previously submitted amendment to replace Tables 1 and 2, along with the instant petition requesting the withdrawal of the objection to the specification under new matter.

DISCUSSION

Applicants petition under 37 C.F.R. 1.113, that the correction of the inadvertent clerical error which resulted in the data for variety 93B09 being replaced by the data for variety 93B68, should not be considered new matter. As stated above applicants submit that the substitution of the data for variety 93B68 for the data for variety 93B09, happened through an inadvertent clerical error and applicants have support for the correct data for variety 93B09, in the provisional application 60/353,106, the benefit of which and incorporation by reference of which is properly claimed.

It is further noted that the claimed soybean variety 93B09 was deposited under ATCC Accession No. PTA-4635, prior to the filing of the instant application.

Applicants' complete argument is acknowledged and found persuasive for the reasons stated by applicant. It is apparent that the substitution of the data for variety 93B68 for variety 93B09 in Tables 1 and 2, was an inadvertent error based on the fact that applicants provisional application, 60/353,106, contains, the correct data.

Further the claimed soybean variety 93B09 was deposited under ATCC Accession No. PTA-4635 prior to the filing of the instant application.

DECISION

For these reasons, the Petition under 37 C.F.R. 1.113 to withdraw the objection for the deletion of original Tables 1 and 2 is **GRANTED.**

Any request for consideration of this petition decision must be filed within two (2) months of the mailing date of this decision.

The application and petition decision will be forwarded to the examiner for consideration of applicants request for continuing examination and accompanying amendments.

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

Jasemine C. Chambers

Jasemine Chambers
Director, Technology Center 1600

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

DAVID TOREN, ESQ.
SIDLEY, AUSTIN, BROWN & WOOD, LLP
787 SEVENTH AVENUE
NEW YORK NY 10019-6018

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JAN 17 2003

OFFICE OF PETITIONS

In re Application of
Michael Leither
Application No. 10/270,941
Filed: October 15, 2002
Attorney Docket No. DT-6311

DECISION GRANTING PETITION

This is a decision on the petition filed December 30, 2002, to accord the above-identified application a filing date of October 15, 2002.

On October 14, 2002, the application was deposited.

On November 14, 2002, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of the drawings.

In response, the present petition alleges that the drawings were not "necessary for the understanding of the subject matter sought to be patented" within the meaning of 35 USC 113.

The Office has determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[1] A review of the record reveals that Claim 26 is a method claims. Therefore, the present application is deemed to be an application which does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date.

In view of the above, the petition is **granted.**

The petition fee of $130.00 remitted will be refunded, in due course.

The preliminary amendment, filed December 30, 2002, is noted and made of record.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 15, 2002, using the application papers filed on October 15, 2002.

---

[1] MPEP 601.01 f .

Any inquiries related to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (703)305-0010

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

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 1/15/03

2 Serial/Patent # 10/270,941

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	4	12/30/02	$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 50--0955

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Office Error

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Kenya A. McLaughlin TITLE: Petitions Atty.

SIGNATURE: Kenya A. McLaughlin PHONE: 305-0010

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [illegible] DATE: 1/17/03

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DW 06-03

Paper No. 6

MICHAEL E. MARION
C/O U.S. PHILIPS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
580 WHITE PLAINS ROAD
TARRYTOWN NY 10591

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JUN 0 9 2003

OFFICE OF PETITIONS

In re Application of	:	
Van Delft et al.	:	
Application No. 10/270,950	:	DECISION GRANTING
Filed: 15 October, 2002	:	PETITION
Attorney Docket No. NL010747	:	

This is a decision on the petition filed on 11 March, 2003, under 37 CFR 1.10(c) requesting that the above-identified application be accorded a filing date of 15 October, 2002, rather than the presently accorded filing date of 14 October, 2002. This petition is properly treated as a petition under 37 CFR 1.182.

Petitioner alleges that the application was deposited in Express Mail service on 15 October, 2002. In support, on 11 March, 2003, petitioner supplied a copy of a USPS Express Mail Post Office to Addressee label bearing Express Mail label No. EV031698746US.

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 instant petition lacks the showing required by item (2). In regards to item (2), a search of the official file reveals that petitioner failed to place the Express Mail label number on the originally filed specification and claims, drawings, and transmittal sheet. It is noted that included with the present petition is a transmittal letter for the above-identified application identifying the Express Mail label number. No copy of that transmittal letter, however, or of any paper containing the above-identified Express Mail label number is located among the application papers in the official file.

The placement of the Express Mail label number on a paper ties the paper to a single, identifiable Express Mail receipt. Where questions are later raised concerning the filing date of the paper, the USPTO may require the applicant to supply a copy of the Express Mail receipt identified on the paper in order to verify the mailing date. Where no Express Mail label number is identified on a paper, the USPTO has no way of independently associating the paper with any particular Express Mail receipt.

Nevertheless, a review of Office PALM records indicates that the above-identified application was one of several received in an Express Mail envelope bearing the above-identified Express Mail number. Furthermore, petitioners have provided a copy of the Express Mail Customer Label showing a "date-in" of 10/15/02. Additionally, a review of the USPTO's USPS Express Mail Information Database shows a package bearing the above-identified Express Mail number was accepted by the USPS on 15 October, 2002. As such, under the circumstances of this case, the petition is granted. Petitioners are cautioned that while in this case an electronic record of the Express Mail number was retained and could be used link the application to the Express Mail shipment, in some circumstances this information may not be available or usable to correct an applicant's filing error if applicant fails to comply with the procedures specified under 37 CFR 1.10.

In view of the above, the petition is granted. Counsel's deposit account, No. 14-1270, will be charged a petition fee of $130.00 as authorized on the application transmittal sheet filed with the present petition.

The application is being forwarded to Initial Patent Examination Division for correction of the filing date to 15 October, 2002.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

In re Application of	:	
Van Delft et al	:	
Application No. 10/270,950	:	ON PETITION
Filed: October 15, 2002	:	
Attorney Docket No. NL 010747	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 23, 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 20, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 21, 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 1753 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 11

U.S. Philips Corporation
580 White Plains Road
Tarrytown, NY 10591

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OFFICE OF PETITIONS

In re Application of :
Tey et al. :
Application No. 10/270,980 : ON PETITION
Filed: October 15, 2002 :
Attorney Docket No. SG 010014 :

This is a decision on the petition filed March 11, 2003, to accord the above-identified application a filing date of October 15, 2002, instead of October 14, 2002.

The petition is **granted**.

37 CFR 1.10(c) states,

> Any person filing correspondence . . . received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label . . . may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label . . . provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The above requirements have been met. It should be noted that the date-in on the label appears to state the requested date but the date-in is not clearly legible. Therefore a search of an USPS database was performed. The USPS database indicates the application was mailed on October 15, 2002. A copy of the search result is attached.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of October 15, 2002.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Copy of result from search of an USPS database

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C., P.A.
60 South Sixth Street
Suite 3300
Minneapolis, MN 55402

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FEB 08 2005

Technology Center 2100

In re Application of:
Gregory WETTSTEIN
Application No.: 10/270,984
Filed: October 15, 2002
For: DIGITAL IDENTITY CREATION AND COALESCENCE FOR SERVICES AUTHORIZATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed October 28, 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: Greg Wettstein
4206 North 19th Avenue
Fargo, ND 58102

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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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	:	
MICHAEL, et al.	:	
Application No. 10/271,004	:	DECISION GRANTING PETITION
Filed: October 15, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 09812.0186	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 6, 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 September 25, 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 should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2136 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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JJGJr: 05-03

Paper 6

BLACKWELL SANDERS
PEPER MARTIN LLP
720 OLIVE STREET
SUITE 2400
ST. LOUIS MO 63101

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MAY 0 7 2003

OFFICE OF PETITIONS

In re Application of	:	
Cheatham, et al.	:	DECISION ON PETITION
Application No. 10/271,017	:	
Filed: 15 October, 2002	:	
Attorney Docket No. 718220.54	:	

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47[1] (the paper is mis-styled as a "Petition Under 37 C.F.R. §1.47(b)") filed on 21 January (and resubmitted on 21 February), 2003.

The Office regrets the delay in addressing this matter.

Petitioner has shown that, while inventor Trent A. Fulghum has signed the oath/declaration, the non-signing inventor **Sean Cheatham** (Mr. Cheatham) has refused or otherwise failed to join in the filing of the above-identified application after having been presented with the application papers.

Specifically, the declaration/statement/submission of facts of/by Kevin Kercher (Reg. No. 33,408) establishes that the non-signing inventor was mailed the application papers, including the

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[1] The regulations at 37 C.F.R. §1.47 provide:
§1.47 Filing when an inventor refuses to sign or cannot be reached.
(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
(c) The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).
[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

specification, claims and drawings, but failed to respond positively to the request that he sign the declaration or in fact sign said declaration.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

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

This file is being forwarded to OIPE for processing as necessary to reflect the instant decision, and then will be forwarded to Technology Center 1700 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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JJGJr: 05-03

Paper 7

SEAN CHEATHAM
16330 COPPERWOOD LANE
GROVER, MO 63040-1944

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MAY 0 7 2003
OFFICE OF PETITIONS

In re Application of :
Cheatham, et al. : COMMUNICATION
Application No. 10/271,017 :
Filed: 15 October, 2002 :
Attorney Docket No. 718220.54 :

Dear Sean Cheatham:

You are named as 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,[1] ¶a, Rules of Practice in Patent Cases.

Should a patent be granted on the application you will be designated therein as 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 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.

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

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 toll-free: (800) 972-6382 (outside the Washington D.C. area).

Telephone inquiries concerning this correspondence may be directed to the undersigned at (703) 305-9199.

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

Counsel of Record:
BLACKWELL SANDERS
PEPER MARTIN LLP
720 OLIVE STREET
SUITE 2400
ST. LOUIS MO 63101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BRAKE HUGHES PLC
C/O PORTFOLIOIP
C/O PORTFOLIOIP, P.O. BOX 52050
MINNEAPOLIS, MN 55402

FAX RECEIVED SEP 22 2005 OFFICE OF PETITIONS

COPY MAILED SEP 23 2005 OFFICE OF PETITIONS

CANCELLED

In re Application of
Timothy Knight
Application No. 10/271,020
Filed: October 15, 2002
Attorney Docket No. PROP 2002-1

: DECISION GRANTING PETITION

This is a decision on the petition, filed September 6, 2005, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on October 15, 2003. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

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

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within

45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. The projected publication date is January 5, 2006 and a copy of the communication regarding rescission is included with this decision.

The petition fee in the amount of $1500.00 has been applied to the finance records for the instant application.

This matter is referred to Technology Center 3624 for further examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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J. NICHOLAS GROSS, ATTORNEY
2030 ADDISON ST.
SUITE 610
BERKELEY, CA 94704

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OFFICE OF PETITIONS

In re Application of :
Knight : DECISION ON PETITION
Application No. 10/271,020 :
Filed: October 15, 2002 :
Docket No.: PROP 2002-1 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 13, 2006.

This application was held abandoned August 19, 2004 for failure to timely submit a proper reply to the non-final Office action mailed May 18, 2004. Notice of Abandonment was mailed December 19, 2005.

Petitioner asserts that a response to the non-final Office action and a petition for extension of time were timely submitted on October 18, 2004 and has submitted as proof of USPTO receipt of the reply a return postcard dated stamped October 18, 2004. Petitioner further indicates that the response submitted October 18, 2004 can be found in the record, albeit mislabeled as a "preliminary amendment."

The original amendment submitted October 18, 2004 has been located in the official application file. Accordingly, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 3600 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

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SUITE 1600
CHICAGO IL 60603-3406

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OFFICE OF PETITIONS

In re Patent No. 7,613,645	: DECISION ON
Knight	: REQUEST FOR RECONSIDERATION
Application No. 10/271,020	: of PATENT TERM ADJUSTMENT
Issue Date: November 3, 2009	: and
Filed: October 15, 2002	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 93666	: CERTIFICATE OF CORRECTION

This is a decision on the petition under 37 CFR 1.705(d), filed January 4, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, two hundred twenty-seven (1227) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand, two hundred twenty-seven (1227) days is **GRANTED to the extent indicated herein**.

On November 3, 2009, the instant application matured into U.S. Patent No. 7,613,645 with a patent term adjustment of eight hundred thirty-three (833) days. Patentees filed the instant application for patent term adjustment on January 4, 2010 (made timely because January 3, 2010 fell on a Sunday). Patentees assert that the Office should be accorded additional "B-delay" of one thousand eighty-two (1082) days.

Patentees' argument with respect to the 1082 days of "B-delay" has been considered. However, Patentees did not deduct from the "B-delay" period the number of days that the application was under appeal. Applicants filed a Notice of Appeal on November 22, 2006. The next action mailed by the Office was a non-final Office action on October 9, 2007. As set forth in 37 CFR 1.703(b)(4), the period of adjustment for "B-delay" does not include the number of days beginning on the date on which a Notice of Appeal was filed (November 22, 2006), and ending on the date of the last decision by the Board or a Federal court, or on the date of mailing of an action under 35 USC 132 (October 9, 2007) or a Notice of Allowance, whichever occurs first.

As such, the period from November 22, 2006 to October 9, 2007, or 322 days, is not included in the "B-delay".

In view thereof, the correct number of days of patent term adjustment is nine hundred five (905) days (1154 days of PTO delay, reduced by 249 days of Applicant delay).

The Office will issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred five (905)** days.

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

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,613,645 B2

DATED : **November 3, 2009**

INVENTOR(S) : Knight

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 833 days.

Delete the phrase "by 833 days" and insert – by 905 days--

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OFFICE OF PETITIONS

FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO CA 94108

In re Application of	:	
Upton	:	
Application No. 10/271,047	:	ON APPLICATION FOR
Filed: October 15, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. ORACL-01175US0	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed January 21, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is three hundred nineteen (319) days, not eighty-two(82) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

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

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

---

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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Paper No.

KILPATRICK STOCKTON LLP
607 14TH STREET, NW
SUITE 900
WASHINGTON DC 20005

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
R. Paul Schaudies et al :
Application No. 10/271,076 :
Filed: October 15, 2002 :
Attorney Docket No. SAIC0062-CIP1 :

This is a decision on the petition under 37 CFR 1.78(a)(3), and under 37 CFR 1.78(a)(6) filed March 14, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of prior-filed nonprovisional Application No. 09/563,038, filed May 1, 2000 and provisional Application No. 60/328,826, filed October 15, 2001 set forth in the amendment filed concurrently with the instant petition.[1]

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR 1.78(a)(3) and 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)(3) and 37 CFR 1.76(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications.

The instant pending nonprovisional application was filed on October 15, 2002, and was pending at the time of filing of the instant petition. While a reference to the prior-filed applications was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter and declaration filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been

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[1]It is noted that the Preliminary Amendment submitted concurrently references provisional Application No. "60/328,836" rather than Application No. 60/328,826. An amendment which corrects this error should be submitted. See 37 CFR 1.121.

scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR 1.78(a)(2)(ii) and 37 CFR 1.78(a)(5)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the nonprovisional application in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR 1.78(a)(3) and 37 CFR

1.78(a)(6).[2] In the instant case, the Office noted the claim for priority of the prior-filed applications in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

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

The examiner of Technology Center AU 1634 will consider the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) and the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for the benefit of prior-filed nonprovisional Application No. 09/563,038, filed May 1, 2000 and provisional Application No. 60/328,826, filed on October 15, 2001.

Frances Hicks

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

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[2] Note 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001; and MPEP 201.11 (page 200-75, Rev. 1, Feb. 2003).

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GUSTAVO SILLER JR
BRINKS HOFER GILSON & LIONE
PO BOX 10395
CHICAGO IL 60610

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In re	:
Saito, et al.	: DECISION ON REQUEST
Application No. 10/271,077	: FOR RECONSIDERATION OF
Filed: October 15, 2002	: PATENT TERM ADJUSTMENT
Patent No. 7,077,936	: UNDER 37 C.F.R. §1.705(d)
Issued: July 18, 2006	:

This letter is in response to the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT" filed September 11, 2006[1], requesting correction of the patent term adjustment (PTA) indicated on the patent due to the patent not issuing within three years of its filing.

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

On July 18, 2006, the above-identified application matured into U.S. Patent No. 7,077,936. The patent issued with a Patent Term Adjustment of four hundred seven (407) days (428 days of PTO delay and 21 days of applicant delay).

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[1] The request was timely in accordance with 37 C.F.R. §1.705(d). See Revision of Patent Term Extension and Patent Term Adjustment Provisions, Final Rule (April 22, 2004), 69 Fed. Reg 21704.

Patentees state that the determination of patent term adjustment should have been increased by 276 days due to the PTO delay incurred for the number of days between the 3 year date and the issue date.

Patentees' argument is not well-taken. As the 276 additional days overlap with the 407 days of PTO delay already accorded, this delay does 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 C.F.R. § 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 view thereof, the correct determination of PTA at the time of issuance is four hundred seven (407) days.

The $200 fee set forth in 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 23-1925.

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

Kery Fries

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

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BROWNING BUSHMAN P.C.
5718 WESTHEIMER, SUITE 1800
HOUSTON, TX 77057-5771

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Morris Anthony Roe :
Application No. 10/271,096 :
Filed: October 11, 2002 :
Attorney Docket No. Tyco Goyen-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 17, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 6, 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 January 7, 2004.

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

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

The petition satisfies the requirement of 37 CFR 1.137 (b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of $1500; and (3) the required statement

of unintentional delay have been received. Accordingly, the petition filed October 17, 2005 is accepted as having been unintentionally delayed.

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

The application matter is being referred to Technology Center 2800, Art Unit 2856 for further processing.

Retta Williams

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

cc: Michael R. Brew
Carter, DeLuca, Farrell & Schmidt, LLP
445 Broad Hollow Road
Suite 225
Melville, NY 11747

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OFFICE OF PETITIONS

In re Application of
Sytsma et al.
Application No. 10/271,109
Filed: October 15, 2002
Attorney Docket No. 60680-1640

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(a), filed September 29, 2004, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

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

The petition under 37 CFR 1.137(a) is **dismissed as moot**.

A non-final Office action was mailed to petitioner on March 11, 2004.

Office records fail to include a reply by applicant. Absent the filing of a timely reply, the application would be abandoned.

Petitioner contends the application is not abandoned due to the fact that a reply was timely filed.

Petitioner has submitted a sufficient showing under 37 CFR 1.8(b) to demonstrate an amendment was filed by facsimile transmission on June 14, 2004. Friday, June 11, 2004, was a National Day of Mourning and the federal government was closed on that date. Therefore, the amendment filed on Monday, June 14, 2004, was timely filed.

Since the petition has been granted under 37 CFR 1.181, the petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. The Office charged petitioner's deposit account $110 for a petition under 37 CFR 1.137(a) and $1,330 for a petition under 37 CFR 1.137(b). As a result of the instant decision, both these fees will be credited back to petitioner's deposit account.

Technology Center Art Unit 3676 will enter the amendment and the examiner will consider the amendment in due course.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 2-3-05

2 Serial/Patent # 10/271,109

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition $110 + $1330	IFW	9/29/04	$ 1440
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 1440

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 1 8 -- 0 0 1 3

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Since the petition under 37 CFR 1.181 granted, petitions and fees under 37 CFR 1.137(a) and 1.137(b) are unnecessary

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Steven Brantley TITLE: Petitions Atty

SIGNATURE: [signature] PHONE: 571-272-3203

OFFICE: Petitions

****

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APPROVED: [signature] DATE: 2/4/05

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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JUN 19 2009

OFFICE OF PETITIONS

In re Application of :
David WISLON :
Application No. 10/271,144 : DECISION ON PETITION
Filed: October 14, 2002 :
Attorney Docket No. **3219-000004** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed August 22, 2008, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on October 23, 2008. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of February 25, 2008 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 3686 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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ZEZHEN HUANG
5 BEAVER BROOK ROAD
CANTON, MA 02021

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MAY 17 2006

OFFICE OF PETITIONS

In re Application of Zezhen Huang Application No. 10/271,158 Filed: October 15, 2002 For: METHOD AND SYSTEM FOR MEASURING PRODUCTIVITY BASED ON COMPUTER ACTIVITIES	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed April 11, 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 this nonprovisional application is the subject of an application filed in an eighteen month publication country on October 15, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen 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 Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of August 24, 2006, has been mailed under separate cover.

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

This application is being forwarded to Technology Center Art Unit 2134 for examination in due course.

Frances Hicks
Petitions Examiner
Office of Petitions

PET DEC

PTO/SB/83 (09-04)
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	10/271,161
Filing Date	10/13/02
First Named Inventor	Paschal
Art Unit	1733
Examiner Name	YAO
Attorney Docket Number	020901

RECEIVED
CENTRAL FAX CENTER
NOV 21 2004

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

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

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

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

The reasons for this request are: Inability to resolve unpaid attorneys fees. A response to a non-final office action was due on November 27, 2004. A reponse was filed on November 21, 2004. Therefore, there are no current deadlines.

CORRESPONDENCE ADDRESS

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

[ ] The address associated with Customer Number: [ ]

OR

[x] Firm or Individual Name	Brent Paschal				
Address	SafePlay International, Inc. 1531 Quail Meadow P.O. Box 246				
City	Campbell	State	Texas	Zip	75422
Country	USA				
Telephone	903-862-3023			Fax	903-862-3040
Signature	Rudolf O. Siegesmund				
Name	Rudolf O. Siegesmund			Registration No.	37,720
Date	November 21, 2004			Telephone No.	215-528-2407

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

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

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

Approved 8/23/05
Steve P. [illegible] for
Jacqueline M. Stone, Director
Technology Center 1700

UNITED STATES PATENT AND TRADEMARK OFFICE

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RATNERPRESTIA
PO BOX 980
VALLEY FORGE, PA 19482-0980

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OCT 21 2005

OFFICE OF PETITIONS

In re Patent No. 6,745,725 :
Issue Date: June 8, 2004 :
Application No. 10/271,195 : ON PETITION
Filed: October 15, 2002 :
Attorney Docket No. C&P-111US :

This is a decision on the petition under 37 CFR 1.182, filed January 3, 2005, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

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

Petitioner is advised that as of December 8, 2004, the fee for a Petition under 37 CFR 1.182 is $400. Petitioner remitted $155 for the petition fee on January 3, 2005; therefore, the fee deficiency of $245 will be charged to petitioner's deposit account as authorized.

A review of the file record discloses that the petition to expedite filed on October 12, 2005 is unnecessary. No fees were charged to petitioner's deposit account. The USPTO wishes to apologize for the delay in rendering a decision on the original petition and any inconvenience this may have caused petitioner.

Telephone inquiries concerning this decision may be directed to Retta Williams at (571) 272-3229. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Publishing Division at (703) 305-8283.

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

Marianne E. Jenkins

Marianne Jenkins
Petitions Examiner
Office of Petitions

cc: Kimberly Terrell, South Tower, 8th Floor (Fax – (703) 746-4658)

UNITED STATES PATENT AND TRADEMARK OFFICE

Pet. Dec.

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

Mailed: JUL 14 2005

Paper Number

In re application of
Gunther Knebel et al..
Serial No.10/271,232
Filed: October 15, 2002
For: MICROPLATE WITH TRANSPARENT BASE

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT UNDER 37 CFR 1.181, filed May 31, 2005. The petition requests that the abandonment, for failure to timely file a proper reply to the Office letter mailed on December 17, 2004, be withdrawn since the applicants did timely file a response on January 17, 2005. (A copy of the RESPONSE filed January 17, 2005 is attached hereto.)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's response was properly filed on January 17, 2005 as evidenced by the properly completed Certificate of Mailing on the copy of the paper entitled RESPONSE. Accordingly, any holding of abandonment for failure to timely file a proper reply to the Office letter mailed on December 17, 2004 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the examiner for processing and consideration of the RESPONSE originally filed December 17, 2004.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

James K, Sakaguchi
Cohen, Sakughi, & English LLP
2040 Main Street, 9th Floor
Irvine, CA 92614

UNITED STATES PATENT AND TRADEMARK OFFICE

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VISTA IP LAW GROUP LLP
2040 MAIN STREET, 9TH FLOOR
IRVINE CA 92614

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JUN 0 4 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Knebel, Gunther	:	
Application No. 10/271,232	:	
Filed: October 15, 2002	:	
Attorney Docket No. GRE - 101	:	

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

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 1700 for further processing.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 16 2004

DCM

In re Application of Christopher Lockwood Serial Number: 10/271,239 Filed: October 15, 2002 For: AGGLOMERATED GRANULAR PROTEIN - RICH NUTRITIONAL SUPPLEMENT	: : : : : :	PETITION UNDER MPEP 708.02 VIII

This is in response to the petition filed November 19, 2002, requesting that the above-identified application be granted Special Status under section 708.02 VIII of the MPEP and 37 CFR 1.102(d). The fee set forth in 37 CFR 1.17(h) has been paid.

The criteria set forth in section 708.02 VIII (C) of the MPEP has not been met. Specifically, applicant has not performed a search directed to the invention as claimed in the application for which special status is requested. A database search is not commensurate in scope with the claims. Searches made to the following classes would satisfy the search requirement: 426, subclass 656; 285; 72; 73; and 74.

The application remains in the status of a new application awaiting action in its regular turn. Applicant is 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 Technology Center (TC) Special Program Examiner.

Accordingly the petition is **DENIED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Peter T. Cobrin
GIBBONS, DEL DEO, DOLAN, GRIFFINGER & VECCHIONE
1 RIVERFRONT PLAZA
NEWARK NJ 07102-5497

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Barry Marenburg, Esq.
Sills, Cummis, Epstein & Gross, P.C.
One Riverfront Plaza
Newark, NJ 07102

MAILED

NOV 26 2004

Technology Center 2100

In re Application of: Beattie, et al.
Application No. 10/271,255
Filed: October 15, 2002
For: METHODS AND SYSTEMS FOR AUTOMATED AUTHENTICATION, PROCESSING AND ISSUANCE OF DIGITAL CERTIFICATES

DECISION ON PETITION TO MAKE SPECIAL UNDER M.P.E.P.§708.02(II): INFRINGEMENT

This is a decision on the petition, filed August 30, 2004, under 37 C.F.R. 1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special.

A grantable petition under 37 C.F.R. 1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R. 1.17(h) and a statement under 37 C.F.R. 1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that: (A) there is an infringing device or product actually on the market or method in use; (B) 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) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed August 30, 2004 includes all of the requirements set forth above and, therefore, the petition is **GRANTED**.

The application is being forwarded to the examiner of record to be advanced out of turn for expedited examination in accordance with the procedures set forth in M.P.E.P. §708.02, "Handling of Petitions to Make Special".

11/23/04

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

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)
6693428	2004-02-17	10271260	2002-10-15	129254NM

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	/Peter J. Vogel/	Date (YYYY-MM-DD)	2008-09-22
Name	Peter J. Vogel	Registration Number	41363

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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United States Patent and Trademark Office
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www.uspto.gov

In re Patent No. 6693428
Issue Date: February 17,2004
Application No. 10271260
Filed: October 15,2002
Attorney Docket No. 16NM01088

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

This is a decision on the electronic petition, filed September 22,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 22,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

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OFFICE OF PETITIONS

In re Application of :
Jiao : DECISION ON PETITION
Application No. 10/271,303 :
Filed: October 15, 2002 :
Dkt. No.: CML00390WS(9640/103) :

This is a decision on the petition under 37 CFR 1.137(b), filed November 12, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned June 24, 2004 for failure to timely submit formal drawings in compliance with the Notice of Allowability ("Notice") mailed March 23, 2004. The Notice set a three (3) month statutory period of time for reply. Notice of Abandonment was mailed August 18, 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 submit a proper reply to the Notices is accepted as having been unintentionally delayed.

This application will be forwarded to publishing 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

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United States Patent and Trademark Office
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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA GA 30309

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JUN 27 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Teryl K. Frey et al. :
Application No. 10/271,311 :
Filed: October 15, 2002 :
Atty Docket No. 07362-0105(43439-221817) :

This is a decision on the petition filed May 20, 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 March 30, 2005 for failure to timely pay the issue fee on or before March 29, 2005. This petition and this decision precede the mailing of the Notice of Abandonment.

The payment of the issue fee, publication fee and petition fee, in accordance with 37 CFR 1.18, is acknowledged. 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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JONDLE & ASSOCIATES P.C.
9085 EAST MINERAL CIRCLE
SUITE 200
CENTENNIAL, CO 80112

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NOV 30 2004

OFFICE OF PETITIONS

In re Application of :
Leske : DECISION ON PETITION
Application No. 10/271,322 :
Filed: October 16, 2002 :
Atty. Dkt. No.: 1760-276 :

This decision is in response to the petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.312 filed September 1, 2004.

The petition under 37 CFR 1.183 is **DISMISSED**.

A Notice of Allowance in the above-identified application was mailed July 8, 2004. The issue fee was timely submitted August 31, 2004. The issue fee was accompanied by an amendment under 37 CFR 1.312. The amendment, however, was defective as it was not properly executed in accordance with 37 CFR 10.18.

Petitioner thereafter promptly submitted a properly executed amendment under 37 CFR 1.312 on September 1, 2004 along with the instant petition. Petitioner herein seeks pursuant to 37 CFR 1.183 waiver of the requirements of 37 CFR 1.312 wherein it states in relevant part that "[a]ny amendment filed pursuant to this section must be filed before or
with the payment of the issue fee."

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

Petitioner has failed to establish the existence of an "extraordinary situation". Petitioner herein acknowledges that his signature on the amendment was "inadvertently omitted." An inadvertent omission is not deemed an extraordinary situation

within the meaning of 37 CFR 1.183. Accordingly, the instant petition is subject to dismissal.
Any request for reconsideration of this decision must be submitted within **TWO (2) MONTH** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.183."

Petitioner is advised that any renewed petition must be accompanied by evidence to sufficiently establish the existence of an "extraordinary situation" warranting the waiver of the rules as required under 37 CFR 1.183. Absent a timely renewed petition or request pursuant to 37 CFR 1.114 or an application pursuant to 37 CFR 1.53(b), this application will be forwarded to the publications division for processing into a patent.

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

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

By facsimile: (703) 872-9306

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, **Mail Stop Petition**
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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JONDLE & ASSOCIATES, PC
9085 E. MINERAL CIRCLE, SUITE 200
CENTENNIAL, CO 80112

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DEC 2 2 2004

OFFICE OF PETITIONS

In re Application of	:
Richard Leske	:
Application No. 10/271,322	: DECISION GRANTING PETITION
Filed: October 16, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1760-276	:

This is a decision on the petition, filed December 20, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 20, 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 1638 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/23/06

TO SPE OF : ART UNIT 1733

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/271331 Patent No.: 6868878

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

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

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

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

1733

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUL 07 2003

Director's Office
Group 3700

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Director's Office
Group 3700

Evan R. Sotiriou
Harness, Dickey & Pierce, P.L.C.
7700 Bonhomme, Suite 400
St. Louis, Missouri 63105

In re application of
Donald E. Donnelly

Application Number: 10/271366
Filed: October 15, 2002

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **BRACKET FOR WATER HEATER**

This is a decision on the petition filed on May 15, 2003, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

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

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only 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: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(703) 308-0975

rt: 7/03/03

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 24, 2005

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction on Patent No.: 6,903,254

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

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

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

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

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

Comments:

[signature] 1638

SPE **Art Unit**

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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SEP 04 2009

OFFICE OF PETITIONS

NuVasive
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

In re Application of Kaula et al. :
Application No. 10/271,388 : Decision on Petition
Filing Date: October 14, 2002 :
Attorney Docket No. 042US2 :

This is a decision on the "Petition to Correct Filing Date" filed August 16, 2004, which is being treated as a petition under 37 CFR 1.10(d) to accord the above-identified application a filing date of October 14, 2002, instead of October 16, 2002. The Office regrets the delay in the issuance of the instant decision.

The petition is **granted**.

A petition under 37 CFR 1.10(c) must demonstrate the "date-in" or other USPS notation on the mailing label corresponds with the filing date requested. Petitioner has failed to provide the PTO with a copy of the express mail label.[1] Therefore, petitioner is unable to obtain relief under 37 CFR 1.10(c) and the petition will be treated as a petition under 37 CFR 1.10(d).

Petitioner has shown the Express Mail mailing label number was placed on the transmittal sheet filed with the original application papers.

37 CFR 1.10(d)(3) states,

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

[1] Paragraph (b) of 37 CFR 1.10 provides,

> Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked.

Petitioner has not supplied a copy of an express mail label and the Office is unable to determine the if the express mail label included a date-in or any other official USPS notation indicating the application was mailed October 14, 2002. However, petitioner has supplied a print-out from the USPS indicating the application was "Enroute" as of 4:28 pm on October 14, 2002.

The print-out is sufficient to constitute the corroborating evidence required under 37 CFR 1.10(d)(3) and the application will be accorded a filing date of October 14, 2002.

The Office of Patent Application Processing will be informed of the instant decision and will change the filing date from October 16, 2002, to October 14, 2002.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Paper No.: _____

DATE : 6/12/09

TO SPE OF : ART UNIT 2621

SUBJECT : Request for Certificate of Correction for Appl. No.: 10271411 Patent No.: 7502048 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME

Certificates of Correction Branch

703-308-9390 ext. 112

Thank You For Your Assistance

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

X **Approved** — **All** changes apply.

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

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

Comments: Just a title change.

ACT SPE 2621 — SPE

2621 — 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.

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

MAILED

JUN 21 2010

OFFICE OF PETITIONS

In re Patent No. 7,502,048	:	DECISION ON REQUEST
Okamoto et al.	:	FOR
Issue Date: March 10, 2009	:	RECONSIDERATION OF
Application No. 10/271,411	:	PATENT TERM ADJUSTMENT
Filed: October 15, 2002	:	and
Atty Docket No. 5077-000132	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 6, 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 nine hundred eighty-five (985) 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 nine hundred eighty-six **(986)** 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 16, 2005 and ends on August 29, 2006, the day before the first RCE was filed. See 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 318 days, and the B delay considering the 25 days of overlap is 293 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 nine hundred eighty-six **(986)** 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 : 7,502,048 B2

DATED : **March 10, 2009** **DRAFT**

INVENTOR(S) : Okamoto 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 693 days

Delete the phrase "by 693 days" and insert – by 986 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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KING & SPALDING LLP
1180 PEACHTREE STREET
ATLANTA, GA 30309-3521

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MAY 09 2007
OFFICE OF PETITIONS

In re Application of	:	
Jayraz Luchoomun, et al.	:	
Application No. 10/271,429	:	DECISION ON PETITION
Filed: October 16, 2002	:	
Atty Docket No. 04676.105067 (ATH118)	:	

This is a decision on the petition under 37 CFR 1.182, filed October 26, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

The application is being referred to Publishing Division for further processing.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST. LOUIS, MO 63102

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DEC 23 2004

OFFICE OF PETITIONS

In re Application of	:	
Syverson et al.	:	
Application No. 10/271,433	:	ON PETITION
Filed: October 16, 2002	:	
Attorney Docket No. KCC 4799.3	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 14, 2004, 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 May 5, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on August 6, 2004.

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

This matter is being referred to Technology Center 1600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

MARK P. VRLA
JENNER & BLOCK LLC
ONE IBM PLAZA
CHICAGO, IL 60611

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MAY 1 5 2003

OFFICE OF PETITIONS

In re Application of
David W. Caldwell
Application No. 10/271,438
Filed: October 15, 2002
Attorney Docket No. 37041-10400

NOTICE

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

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

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

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

This file is being forwarded to the Initial Patent Examination Unit.

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

SN 10/271,448

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 1/18/05

TO SPE OF : ART UNIT 3612

SUBJECT : Request for Certificate of Correction on Patent No.: 6769233 B2

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

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

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

Virginia Tolbert

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

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

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

Comments:

D. GLENN DAYOAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE 2/1/05 **Art Unit** 3612

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Paper No. 6

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JUN 18 2003

OFFICE OF PETITIONS

Robert W. Holland
HAMILTON & TERRILE, LLP
PO Box 203518
Austin TX 78720

In re Application of
Jason Travis Campbell, Willam H. Wong, Gaston M. Barajas, and James Van Artsdalen
Application No. 10/271,451
Filed: October 16, 2002
Attorney Docket No. DC-03707
Title: METHOD AND SYSTEM FOR MANUFACTURE OF INFORMATION HANDLING SYSTEMS FROM AN IMAGE CACHE

DECISION ACCORDING STATUS UNDER 37 C.F.R. §1.47(a)

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed January 22, 2003.

The petition under 37 C.F.R. §1.47(a) is **GRANTED**.

The above-identified application was filed on October 16, 2002, identifying Jason Travis Campbell, Willam H. Wong, Gaston M. Barajas, and James Van Artsdalen as joint inventors. On November 14, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration[2] in compliance with 37 C.F.R. §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition (and fee), as well as the surcharge associated with the late filing of an oath or declaration.

---

1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) proof that the non-signing inventor refuses to join in the application or cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

2 The declaration was executed by inventors Campbell, Wong, and Barajas.

Accompanying the petitions was a statement from an attorney of record and copies two letters sent to the non-signing inventor which requested that he sign the declaration.

The documents submitted establish that a copy of the application was sent to the non-signing inventor, and he has failed to respond.

The petition includes the last known address for each of the non-signing inventors. The documents submitted establish that a copy of the application papers was sent to the non-signing inventor at his last known address, and he has failed to respond.

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

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

After this decision is mailed, the application will be returned to the Office of Initial Patent Examination (OIPE) for completion of pre-examination processing.

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

Paul Shanoski

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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APR 13 2004

#6

WARNER-LAMBERT COMPANY
2800 PLYMOUTH RD
ANN ARBOR MI 48105

In re Application of	:
Frederick Earl Boyer Jr., et al	:
Serial No.: 10/271,467	: PETITION DECISION
Filed: October 16, 2002	:
Attorney Docket No.: PC17890A	:

This is in response to the petition under 37 CFR 1.181, filed December 15, 2003, 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 examiner mailed an Office action to applicants on March 5, 2003, setting a one month shortened statutory period for reply. Upon failure to receive a reply the application was held abandoned by Notice of Abandonment mailed November 12, 2003. Applicants state that a reply was submitted on April 8, 2003. A review of the reply shows that an incorrect Serial Number was placed on the reply delaying its correlation with the correct file. The original reply has now been located and placed in the file In view of the evidence presented, the Notice of Abandonment is withdrawn and the application restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

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

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

Bruce M. Kisliuk
Director, 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, DC 20231
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Todd E. Fitzsimmons
O'Melveny & Myers LLP
400 South Hope Street
Los Angeles, CA 90071-2899

MAILED

JUN 30 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER

Paper No. 6

In re application of
Todd E. Fitzsimmons
Application No. 10/271,471
Filed: October 15, 2002
For: SYSTEM AND METHOD FOR MAIL VERIFICATION

DECISION ON PETITION TO MAKE SPECIAL (COUNTER TERRORISM)

This is in response to the petition filed on June 12, 2003 to make the above-identified application special on the basis of inventions for countering terrorism as set forth in MPEP § 708.02 XI.

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); and (B) a statement explaining how the invention contributes to countering terrorism.

Applicant's petition explains that "The invention relates to counter-terrorism. Specifically, the present invention provides a system and method of authenticating at least one mail object (which may include explosives or other hazardous materials) by providing mail verification data in response to receiving at least a portion of mail identification data, said mail identification data being affixed to said at least one mail object." This statement lacks any specifics about HOW the invention materially contributes to Item (B), above. Without specific details about how the invention functions to detecting explosives and hazardous materials and how the mail is verified or identified, the above statement is inadequate to establish for the record how the invention relates to counter-terrorism.

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. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Petitioner should promptly submit such a renewed petition to the Commissioner for Patents, P.O. Box 1450 Alexandria,

VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until any such 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) 308-0868

SNM/dxn: 6/23/03

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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OCT 08 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Todd E. Fitzsimmons
O'Melveny & Myers LLP
400 South Hope Street
Los Angeles, CA 90071-2899

Paper No. 6

In re application of
Todd E. Fitzsimmons
Application No. 10/271,471
Filed: October 15, 2002
For: SYSTEM AND METHOD FOR MAIL VERIFICATION

DECISION ON PETITION TO MAKE SPECIAL (COUNTER TERRORISM)

This is in response to the renewed petition filed on September 2, 2003 to make the above-identified application special on the basis of inventions for countering terrorism as set forth in MPEP § 708.02 XI.

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); and (B) a statement explaining how the invention contributes to countering terrorism.

Applicant's declaration explains that the invention reduces the risk of terrorist attack by providing a system and method of verifying or authenticating a mail object before the mail object is opened and thereby minimizing the recipient's exposure to the contents of the mail object by indicating that the mail object is safe to open or not safe to open via data comparison by the recipient from a secure facility. This is an acceptable explanation of how the invention would act to counter terrorism.

Since all of the requirements for special status under MPEP § 708.02 XI 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 applicati[illegible]scovered, to examine such applica[illegible]n 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/ekn 10/1/03

SPE: G. Epps.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/20/06

TO SPE OF : ART UNIT 2878

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/271,477 Patent No.: 6894264

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

Gregory Y. Epps — SPE

2878 — 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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HOWARD & HOWARD ATTORNEYS, P.C.
THE PINEHURST OFFICE CENTER, SUITE #101
39400 WOODWARD AVENUE
BLOOMFIELD HILLS MI 48304-5151

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JAN 31 2006

OFFICE OF PETITIONS

In re Application of	:
Harold A. Ladouceur	:
Application No. 10/271,480	: DECISION ON PETITION
Filed: October 16, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 60,152-956	:

This is a decision on the petition under 37 CFR 1.78(a)(3) filed October 29, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed non-provisional applications set forth in the amendment embodied in the petition.

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 amendment submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical

sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Additionally, the benefit claim needs to be re-written to properly indicate the relationship of the applications. This application is claiming the benefit of two prior filed applications and is claiming the benefit of both. The claim should indicate that this application is (state relationship) of Application No. 10/---, filed—, and (not which) is (state relationship) of Application No. 10/---, filed—.

Furthermore, the reference to the applications should be chronologically listed and should indicate that this application is also a continuation of application no. 10/044,163 since 10/004,918 cannot claim priority to later filed application no. 10/044,163.

In view of the above, the petition is **DISMISSED**.

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: (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.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : February 06, 2008

TO SPE OF : ART UNIT 3677

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/271,480 Patent No.: 7179034 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

LAMONTE

NEWSOME

Certificates of Correction Branch

703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE 3676 2/29/08

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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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BEUSSE BROWNLEE WOLTER MORA & MAIRE, P. A.
390 NORTH ORANGE AVENUE
SUITE 2500
ORLANDO FL 32801

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FEB 2 4 2004

OFFICE OF PETITIONS

In re Application of
Cryer, et al.
Application No. 10/271,514
Filed: October 17, 2002
Attorney Docket No. 20-LC-120754/335
For: SYSTEM AND METHOD FOR MONITORING THE CONDITION OF A HEAT EXCHANGE UNIT

DECISION DISMISSING PETITION

This is a decision on the petition entitled, "REQUEST FOR CORRECTION OF FILING RECEIPT," filed January 13, 2004, which is properly treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be accorded a filing date of October 16, 2002, rather than the presently accorded filing date of October 17, 2002.

Petitioners request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on October 16, 2002, pursuant to the requirements of 37 CFR 1.10.

Section 1.10(a) of title 37, Code of Federal Regulations, states that:

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

The PTO considers the date the paper or fee is shown to have been deposited as Express Mail as set forth in §1.10(a) to be the "Date-In" on the Express Mail label.

Placing the "Date-In" on the Express Mail label by the postal clerk establishes that the package was actually received by the Postal Service. That is the date that verifies that the package was actually mailed.

This petition does not satisfy the requirements of 37 CFR 1.10(c) because petitioners' copy of "Express Mail" mailing label no. EO000315818US does not have a completed "date-in" field or any other official notation by the USPS showing a October 16, 2002 date of deposit. An application's filing date is the date that it was received in the Office, in the absence of persuasive USPS evidence of a different date of deposit of the application in Express Mail. Petitioners are reminded that a certificate of mailing cannot be relied upon to obtain a filing date for an application. 37 CFR 1.8 (a)(2)(i)(A).

Accordingly, the petition is dismissed and the filing date remains October 17, 2002. No petition fee has been charged in connection with this matter.

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
ATTN: E. Shirene Willis

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
ATTN: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions -- E. Shirene Willis

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
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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390 NORTH ORANGE AVENUE
SUITE 2500
ORLANDO FL 32801

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APR 0 8 2004

OFFICE OF PETITIONS

In re Application of
Cryer, et al.
Application No. 10/271,514
Filed: October 17, 2002
Attorney Docket No. 20-LC-120754/335
For: SYSTEM AND METHOD FOR MONITORING THE CONDITION OF A HEAT EXCHANGE UNIT

DECISION GRANTING PETITION

This is a decision on the reconsideration petition under 37 CFR 1.10(c), filed March 26, 2004, requesting that the above-identified application be accorded a filing date of October 16, 2002, rather than the presently accorded filing date of October 17, 2002.

Petitioners request the earlier filing date on the basis that the application was deposited in Express Mail service of the United States Postal Service (USPS) on October 16, 2002, pursuant to the requirements of 37 CFR 1.10. The reconsideration petition is accompanied by a copy of a Customer Online Record for Express Mail label no. EO000315818US showing a USPS date stamp of October 16, 2002. The same Express Mail label number is listed on the original application papers.

The evidence presented establishes that the Express Mail package associated with Express Mail label no. EO 000 315 818US was deposited with the USPS on October 16, 2002.

Accordingly, the petition is granted.

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

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **October 16, 2002**.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

BEUSSE BROWNLEE WOLTER MORA & MAIRE, P.A.

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FACSIMILE TRANSMITTAL SHEET

TO: Copy Fulfillment	FROM: Robert L. Wolter, Esquire
COMPANY: USPTO	DATE: November 3, 2004
FAX NUMBER: (703) 872-9306	TOTAL NO. OF PAGES INCLUDING COVER: 3
PHONE NUMBER:	SENDER'S REFERENCE NUMBER: 624226-335
RE: GE Transportation Systems	YOUR REFERENCE NUMBER: Serial No. 10/271,514

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☑ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

Please see attached request for certified copies.

390 NORTH ORANGE AVENUE, SUITE 2500, ORLANDO, FLORIDA 32801
TELEPHONE (407) 926-7700

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JAMES H. BEUSSE
JACKSON O. BROWNLEE
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DAVID C. MAIRE
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OF COUNSEL
JOSEPH FISCHER

PATENT AGENT
NORMAN A. NIXON

WRITER'S DIRECT DIAL/EMAIL
(407) 926-7707
TSANKS@IPLAWFL.COM

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November 3, 2004

VIA FACSIMILE
U.S. Patent & Trademark Office
Box 9 PTCS
Washington, DC 20231

RE: U.S. Nonprovisional Aplication Serial No. 10/271,514
Title: **System and Method for Monitoring the Condition of a Heat Exchange Unit**
Filed: **October 16, 2002**

Dear Sir or Madam:

Please provide two certified copies of the Decision Granting Petition dated April 8, 2004 with regard to the above-referenced pending patent application. A copy of the Decision is enclosed for your reference.

Please debit our client's deposit account for the cost of providing the certified copies. A Fee Transmittal is enclosed for your use. Thank you for your assistance in this matter.

Very truly yours,

Robert L. Wolter

RLW/ger
Enclosures

PTO/SB/17 (10-04v2)
Approved for use through 07/31/2006 OMB 0651-0032
U S Patent and Trademark Office, U S DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

FEE TRANSMITTAL for FY 2005

Effective 10/01/2004. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 50.00

Complete if Known	
Application Number	10/271,514
Filing Date	October 15, 2002
First Named Inventor	Robert D. Cryer, et al.
Examiner Name	Not Yet Assigned
Art Unit	3753
Attorney Docket No.	20-LC-120754 (335)

METHOD OF PAYMENT *(check all that apply)*

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☑ Deposit Account

Deposit Account Number: 07-0846

Deposit Account Name: General Electric Company

The Director is authorized to: *(check all that apply)*

☑ Charge fee(s) indicated below ☐ Credit any overpayments

☐ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
1001	790	2001	395	Utility filing fee	
1002	350	2002	175	Design filing fee	
1003	550	2003	275	Plant filing fee	
1004	790	2004	395	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) ($) 0.00

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

		Extra Claims		Fee from below	Fee Paid
Total Claims		-20** =		x	=
Independent Claims		- 3** =		x	=
Multiple Dependent					=

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
1202	18	2202	9	Claims in excess of 20
1201	88	2201	44	Independent claims in excess of 3
1203	300	2203	150	Multiple dependent claim, if not paid
1204	88	2204	44	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) ($) 0.00

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for *ex parte* reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	430	2252	215	Extension for reply within second month	
1253	980	2253	490	Extension for reply within third month	
1254	1,530	2254	765	Extension for reply within fourth month	
1255	2,080	2255	1,040	Extension for reply within fifth month	
1401	340	2401	170	Notice of Appeal	
1402	340	2402	170	Filing a brief in support of an appeal	
1403	300	2403	150	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,370	2453	685	Petition to revive - unintentional	
1501	1,370	2501	685	Utility issue fee (or reissue)	
1502	490	2502	245	Design issue fee	
1503	660	2503	330	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	790	2809	395	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	790	2810	395	For each additional invention to be examined (37 CFR 1.129(b))	
1801	790	2801	395	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) Request for certified copies of decision (2) 50.00

*Reduced by Basic Filing Fee Paid SUBTOTAL (3) ($)

SUBMITTED BY				(Complete if applicable)	
Name (Print/Type)	Robert L. Wolter, Esquire	Registration No. (Attorney/Agent)	36,972	Telephone	(407) 926-7706
Signature				Date	November 3, 2004

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U S Patent and Trademark Office, U.S Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

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BEUSSE WOLTER MORA & MAIRE, P.A.

BEUSSE BROWNLEE WOLTER MORA & MAIRE, P. A.
390 NORTH ORANGE AVENUE
SUITE 2500
ORLANDO FL 32801

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APR 0 8 2004

OFFICE OF PETITIONS

In re Application of
Cryer, et al.
Application No. 10/271,514
Filed: October 17, 2002
Attorney Docket No. 20-LC-120754/335
For: SYSTEM AND METHOD FOR MONITORING THE CONDITION OF A HEAT EXCHANGE UNIT

DECISION GRANTING PETITION

This is a decision on the reconsideration petition under 37 CFR 1.10(c), filed March 26, 2004, requesting that the above-identified application be accorded a filing date of October 16, 2002, rather than the presently accorded filing date of October 17, 2002.

Petitioners request the earlier filing date on the basis that the application was deposited in Express Mail service of the United States Postal Service (USPS) on October 16, 2002, pursuant to the requirements of 37 CFR 1.10. The reconsideration petition is accompanied by a copy of a Customer Online Record for Express Mail label no. EO000315818US showing a USPS date stamp of October 16, 2002. The same Express Mail label number is listed on the original application papers.

The evidence presented establishes that the Express Mail package associated with Express Mail label no. EO 000 315 818US was deposited with the USPS on October 16, 2002.

Accordingly, the petition is granted.

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

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **October 16, 2002**.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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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Kimberly S. Jordahl
Kagan Binder, PLLC
Suite 200
221 Main St.
Stillwater MN 55082

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JUN 07 2005

OFFICE OF PETITIONS

Applicant: Pederson et al.
Appl. No.: 10/271,524
Filing Date: October 15, 2002
Title: CATHETER BALLOON WITH ADVANTAGEOUS CONE DESIGN
Attorney Docket No.: BSC0004/US
Pub. No.: US 2004/0249035 A1
Pub. Date: April 15, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on March 14, 2005, which is a copy of the request submitted on June 14, 2004, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application republishes.

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

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

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)
6667497	2003-12-23	10/271,532	2002-10-17	250183-1010

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	/Daniel R. McClure/	Date (YYYY-MM-DD)	2009-07-31
Name	Daniel R. McClure	Registration Number	38962

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. 6667497
Issue Date: December 23,2003
Application No. 10271532
Filed: October 17,2002
Attorney Docket No. BHT-3167-76

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

This is a decision on the electronic petition, filed July 31,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 31,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF THE DIRECTOR
TC 3600

CLARK & BRODY
1090 Vermont Avenue, NW, Suite 250
Washington, DC 20005

In re Application of
Francis V. Smith
Application No. 10/271,587
Filed: October 17, 2002
For: COMBINATION HAULING VEHICLE AND LOW BOY TRAILER AND TRAILER WITH OUTRIGGER ASSEMBLY

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on October 22, 2004.

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

☐ Postcard receipt being dated _____.

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

☐ Certificate of Mailing/Transmission signed on _____ 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 June 18, 2004, with a Certificate of Mailing dated June 18, 2004 has been found in the application.

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

SNM/jwk: 3/1/05

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK, NY 10103-3198

Mail Date: 04/21/2010

Applicant	: Olivier De Backer	: DECISION ON REQUEST FOR
Patent Number	: 7572885	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/271,617	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/16/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **930** 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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FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK, NY 10103-3198

Mail Date: 04/28/2010

Applicant	: Olivier De Backer	: DECISION ON REQUEST FOR
Patent Number	: 7572885	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/271,617	: OF WYETH
Filed	: 10/16/2002	:
		:

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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JULIA CHURCH DIERKER
DIERKER & ASSOCIATES, P.C.
3331 W. BIG BEAVER RD. SUITE 109
TROY MI 48084-2813

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OFFICE OF PETITIONS

In re Patent No. 6,979,700 :
Issue Date: December 27, 2005 :
Application No. 10/271, 622 :
Filed: October 16, 2002 :
Attorney Docket No. UMJ-115B :

NOTICE

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

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

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

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

ALESIA M. BROWN
Petitions Attorney
Office of Petitions

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Paper No. 4

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FEB 25 2003

OFFICE OF PETITIONS

CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON MA 02210

In re Application of
Santry, et al.
Application No. 10/271,633
Filed: October 15, 2002
Attorney Docket No.112056-0059
For: ZERO COPY WRITES THROUGH USE OF MBUFS

: DECISION GRANTING
: PETITION

This is a decision on the petition filed December 27, 2002 entitled, "37 CFR 1.10(d) PETITION FOR CHANGE OF FILING DATE, " requesting that the above-identified application be accorded a filing date of October 15, 2002 rather than the presently accorded filing date of October 14, 2002. The petition will be treated under 37 CFR 1.10(c).

Petitioners request the later filing date on the basis that the application was deposited in Express Mail service of the United States Postal Service (USPS) on October 15, 2002, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EL736456459US showing a "date-in" of October 14, 2002 **and** a USPS date stamp for October 15, 2002. The same Express Mail label number is found on the original application transmittal letter in the application file.

The evidence presented establishes that the Express Mail package associated with Express Mail label no. EL736456459US was deposited with the USPS on October 15, 2002.

Accordingly, the petition is granted.

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

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to October 15, 2002.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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HOVEY WILLIAMS LLP
2405 GRAND BLVD., SUITE 400
KANSAS CITY MO 64108

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Tomoyuki Enomoto et al	:	
Application No. 10/271,646	:	
Filed: October 15, 2002	:	
Attorney Docket No. 33025	:	

This is a decision on the petition, filed April 7, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on August 30, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2829 will consider the request for continued examination under 37 CFR 1.114.

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

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

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Paper No. None

HOLLAND & HART LLP
60 E. SOUTH TEMPLE
SUITE 2000
SALT LAKE CITY UT 84111

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OFFICE OF PETITIONS

In re Application of	:	
Andreas Rohrwasser et al.	:	
Application No. 10/271,661	:	
Filed: October 16, 2002	:	DECISION ON PETITION
Attorney Docket No. 50407.0006	:	UNDER 37 C.F.R. §1.181(A)
Title: DRUG SCREENING AND	:	
DIAGNOSIS BASED ON PARACRINE	:	
TUBULAR RENIN-ANGIOTENSIN	:	
SYSTEM	:	

This is a decision on the petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on January 27, 2006.

BACKGROUND

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed March 18, 2005, 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 May 19, 2005. A Notice of abandonment was mailed on October 6, 2005.

With the present petition, Petitioner has alleged that the mailing was not received, as it was mailed to the incorrect address.

The electronic file has been reviewed, and it is clear that a change of address was received on January 29, 2004, which changed the address of record to the law firm of Task Britt, but the above-mentioned communication was mailed to an alternate law

firm. Petitioner has asserted that the law firm which received the mailing has not forwarded the communication to Task Britt.

The revocation and power of attorney with new power of attorney and change of correspondence address submitted with this petition has been entered and made of record.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

MPEP 711.03(c) states, in part:

> PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION
>
> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).
>
> Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 CFR 1.137(a) based

upon unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

ANALYSIS

The showing in the present petition is not sufficient to withdraw the holding of abandonment.

Although Petitioner has established that the Office communication was not sent to the correct address, Petitioner has not established that said communication was not forwarded to Task Britt and subsequently received. It is noted that Petitioner does not have firsthand knowledge of the failure to receive the communication. Petitioner has not met the requirements outlined above, in that it does not appear that he has:

- asserted that he has searched the file jacket;
- asserted that he has searched the docket records of Task Britt;
- included a copy of the file jacket, and;
- included a copy of the docket report from Task Britt.

Therefore, Petitioner has not established non-receipt of the communication, and the petition under 37 C.F.R. §1.181 must be **DISMISSED**.

CONCLUSION

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.181." This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.

concerning examination procedures or status of the application should be directed to the Technology Center.

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. None

HOLLAND & HART LLP
60 E. SOUTH TEMPLE
SUITE 2000
SALT LAKE CITY UT 84111

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MAY 24 2006
OFFICE OF PETITIONS

In re Application of Andreas Rohrwasser et al. Application No. 10/271,661 Filed: October 16, 2002 Attorney Docket No. 50407.0006 Title: DRUG SCREENING AND DIAGNOSIS BASED ON PARACRINE TUBULAR RENIN-ANGIOTENSIN SYSTEM	DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.181(A)

This is a decision on the renewed petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on May 12, 2006.

BACKGROUND

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed March 18, 2005, 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 May 19, 2005. A Notice of abandonment was mailed on October 6, 2005.

The original petition was submitted on January 27, 2006, and was dismissed via the mailing of a decision on March 15, 2006, as Petitioner had failed to establish non-receipt of the Office action.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

MPEP 711.03(c) states, in part:

PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION

In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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

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

Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 CFR 1.137(a) based upon unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

ANALYSIS

With this renewed petition, Petitioner has submitted additional evidence and has met each of the requirements of Delgar v. Schuyler, enumerated in the portion of the MPEP reproduced above.

CONCLUSION

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 mail a new Restriction Requirement. The one-month extendable time period for electing an invention to be examined will be set to run from the mailing date of the Office action.

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. 4

FISH & RICHARDSON, P.C.
4350 La Jolla Village Drive
Suite 500
San Diego, CA 92122

APR 22 2003

In re Application of)
Victor Koretsky et al.)
Application No. 10/271,667)
Filed: October 15, 2002)
For: SWITCHING MODE POWER SUPPLY)
WITH FORWARD- LOOKING)
REGULATION FOR A PULSED LOAD)

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 25, 2003, via facsimile transmission.

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

The request was signed by John C. Phillips on behalf of all attorneys of record, Customer No. 20985.

The request is APPROVED.

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.

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

Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: D.S.P. GROUP LTD
5 Shenkar Street
P.O. Box 2019
Herzelia Pituach 46120
ISRAEL

AIR MAIL

UNITED STATES PATENT AND TRADEMARK OFFICE

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

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OFFICE OF PETITIONS

In re Application of
Jon J. Anderson, et. al.
Application No. 10/271,686
Filed: October 15, 2002
Attorney Docket No. 010164

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on September 5, 2006, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed July 12, 2005. A Notice of Abandonment was mailed on January 13, 2006.

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

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

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

This application file is being referred to Technology Center Art Unit 2666, for review of the amendment filed with the present petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Edward Kessler
Sterne Kessler Goldstein and Fox, PLLC
1100 New York Ave, NW
Washington, DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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OCT 29 2003

OFFICE OF THE DIRECTOR
TC 3600

Harry M. Weiss
WEIS & MOY, P.C.
4204 North Brown Avenue
Scottsdale, AZ 85251

Paper No. 6

In re application of
Frank M. Gevay
Application No. 10/271,693
Filed: October 17, 2002
For: EMERGENCY ROOF DETACHMENT DEVICE FOR A VEHICLE

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

This is a decision on the petition submitted on October 6, 2003, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age

The petition is **DISMISSED**.

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 was a statement from applicant's attorney. This is not acceptable. Any such statement must be signed by the person alleging an age of 65 or older.

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. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. 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: 10/28/03

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF THE DIRECTOR
TC 3600

WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE AZ 85251

In re application of Frank M. Gevay Application No. 10/271,693 Filed: October 17, 2002 For: EMERGENCY ROOF DETACHMENT DEVICE FOR A VEHICLE	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the renewed petition received January 12, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a copy of Mr. Gevay's Nevada driving license which indicates 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/mjz: 3/30/04

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

MAILED

JUN 28 2010

OFFICE OF PETITIONS

In re Application of	:	
Todd Juan	:	
Application No. 10/271,697	:	ON APPLICATION FOR
Filed: October 15, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. 01-1161-A	:	

This is in response to the "REQUEST FOR RECOSNIDERATION OF DTERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b)" filed March 17, 2010. Applicants submits that the patent term adjustment to be indicated on the patent is at least one thousand, one hundred and fifty-four (1,154) days, not three hundred forty-eight (348) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a

---

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

patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on February 19, 2008.

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

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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BERGHOFF LLP
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32ND FLOOR
CHICAGO IL 60606

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JUL 06 2010

OFFICE OF PETITIONS

Applicant: Todd Juan	:	DECISION ON REQUEST FOR
Patent Number:Not Yet Available	:	RECALCULATION of PATENT
Issue Date: Not Yet Available	:	TERM ADJUSTMENT IN VIEW OF
Application No. 10/271,697	:	WYETH
Filed: 10/15/2002	:	

The Applicant's Request for Recalculation is **DISMISSED AS PREMATURE.** Applicant has filed the request based upon the USPTO determination that is provided to applicant in the notice of allowance.

The USPTO does not calculate and inform the applicant of the patent term adjustment based upon the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) or the overlapping provision in 35 USC § 154(b)(2)(A) in the notice of allowance because the USPTO must know the date the patent will issue to be able to calculate the patent term adjustment based upon these provisions. Accordingly, the USPTO does not determine the amount of "B" delay or the amount of overlap as required by Wyeth until the USPTO establishes a grant date.

Thus, reconsideration of the patent term adjustment indicated in the patent as it relates to the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) and any overlap pursuant to 35 USC § 154(b)(2)(A) are not considered matters that could have been raised in an application for patent term adjustment under 37 CFR 1.705(b)(provides for reconsideration of the patent term adjustment indicated in the notice of allowance). Therefore, a request for reconsideration of the patent term adjustment calculation based on the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) and the overlapping provision of 35 USC §

154(b)(2)(A) will be considered timely filed if filed within two months of the issue date of the patent.

Applicant may file a reply to this decision dismissing the Request for Recalculation. Applicant 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.

Applicant 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.

Applicant 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.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH, NJ 07033-0530

In re Application of	:
Chackalamannil, et al.	: LETTER REGARDING PTA
Application No. 10/271,715	:
Filed: October 16, 2002	:
Atty. Dkt. No.: CV01507K1	:

This letter is in response to the "Request for Patent Term Adjustment Under 37 C.F.R. §1.705(b)," filed December 15, 2005. The Office thanks applicants for their good faith and candor in bringing this matter to our attention.

The correct patent term adjustment (PTA) at the time of the allowance is 197 days as indicated in the Determination of Patent Term Adjustment mailed September 15, 2005.

Applicants, however, state that the application is entitled to 43 days of adjustment and references the submission of an amendment under 37 CFR 1.312 on July 21, 2005.

A review of the application history does not reveal submission of an amendment under 37 CFR 1.312 on July 21, 2005. Applicants are hereby notified of non-receipt in this application of an amendment on July 21, 2005. Applicants may wish to consider resubmission of this amendment (subject to reduction of patent term adjustment accordingly). Nonetheless, a review of the PTA calculation has been undertaken. Given the absence of an amendment filed July 21, 2005, the PTA of 197 days at the time of the allowance is correct, as follows:

A review of the application history reveals that as of the time of allowance, an adjustment totaling 197 days can be attributed to the Office. In accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1), an adjustment of 43 days can be attributed to the Office for failure 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. In accordance with 37 CFR 1.702(a)(2) and 1.703(a)(2), a further adjustment of 154 days can be attributed to the Office for failure to 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.

At the time of allowance, there was no failure by applicants to engage in reasonable efforts to conclude prosecution. Accordingly, at the time of allowance, the PTA is 197 days.

As applicants are advising the Office of a potential error in providing too much patent term adjustment in this application, no fee is due in connection to this matter. A refund has been requested from the Finance Office, Refund Section on applicants' behalf.

This application is being directed to the Publications Division for processing into a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450

July 8, 2004

YOUNG & THOMPSON
745 SOUTH 23RD STREET 2ND FLOOR
ARLINGTON VA 22202

JUL 8 2004

In re Application of:	:	
AJISAWA, AKIRA	:	NOTICE OF WITHDRAWAL
Application No. 10/271,720	:	FROM ISSUE
Filed: October 17, 2002	:	UNDER 37 C.F.R. § 1.313
Attorney Docket No. 8031-1004	:	

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

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed March 29, 2004, are hereby vacated.

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

The issue fee is refundable upon request. However, the applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, the applicant may request either a refund or a credit to a Deposit Account.

Telephone inquires should be directed to David Porta, Supervisory Patent Examiner, at (571) 272-2444.

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

Janice A. Falcone

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

UNITED STATES PATENT AND TRADEMARK OFFICE

#5

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 2023
www.uspto.gov

Otto O. Lee
Intellectual Property Law Group LLP
12th Floor
12 South First Street
San Jose, CA 95113

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APR 25 2003

Office of the Director
Group 3600

In re application of
Joseph Cheuk Mau Wong
Application No. 10/271,810
Filed: October 15, 2002
For: INSULATING SLEEVE FOR GRASPING CONTAINER AND MANUFACTURING METHOD

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on March 19, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), given the statement included in the request that, "Applicant has transferred the application to a new attorney of record"; it is not clear that the statements satisfy one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6). Condition B) can be met by clearly specifying one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6).

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

KJD/tpl: 4/22/03

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Roger T. Frost, Esq.
MERCHANT & GOULD, P.C.
P.O. BOX 2903
Minneapolis MN 55402-0903

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OFFICE OF PETITIONS

In re Application of Zobele et al. Application No. 10/271812 Filing or 371(c) Date: 10/16/2002 Patent No. 6775470 Issue Date: 08/10/2004 Title of Invention: DEVICE FOR THE DIFFUSION OF SOLUTIONS	: : : : : : : : :	ON PETITION

This is a notice regarding 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.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Castel appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If Mr. Castel desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Castel,

the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Petitioner is advised that, in patented files: requests for changes of correspondence address, powers of attorney, revocations of powers of attorney, withdrawal of attorney and submissions under 37 CFR 1.501: Designation of, or changes to, a fee address, should be addressed to Mail Stop M Correspondence.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

CC: BENOIT CASTEL
745 SOUTH 23RD STREET
ARLINGTON, VA 22202

UNITED STATES PATENT AND TRADEMARK OFFICE

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THOMAS H. CLOSE
EASTMAN KODAK COMPANY
PATENT LEGAL STAFF
343 STATE STREET
ROCHESTER, NY 14650-2201

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FEB 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Manico, et al.	:	
Application No. 10/271,816	:	ON PETITION
Filed: October 16, 2002	:	
Attorney Docket No. 84871SHS	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed May 6, 2004. A two (2) 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 October 7, 2004.

The file is being forwarded to Technology Center 2800 for review of the Request For Continued Examination ("RCE"), filed December 13, 2004.

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

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

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JEFFREY S. WHITTLE
BRACEWELL & PATTERSON
P.O. BOX 61389
HOUSTON TX 77208-1389

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OFFICE OF PETITIONS

In re Patent No. 7,037,256 :
Issued: May 2, 2006 :
Application No. 10/271,821 : ON PETITION
Filed: October 16, 2002 :
Attorney Docket Number: 074701.000025 :

This is a decision on the petition, filed May 8, 2006, under 37 CFR 3.81(b)[1], to correct the assignee's name on the front of the Patent.

The petition is **GRANTED**.

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

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

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

The request is accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that AUGUSTA MEDICAL SYSTEMS, LLC is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

---

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

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/25/06

TO SPE OF : ART UNIT 3763

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/271830** Patent No.: **6835189**

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

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

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

A. Green

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE

3763
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 6835189
DATED: December 28, 2004
INVENTOR(S): Frank A. Musbach et al

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

Column 7, line 33, delete "ballon" and insert --balloon--;

Column 7, line 43, delete "D1"" and insert --D1'--

Column 7, line 44, delete "said central region" and insert -- at least one of said proximal end and said distal end --

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PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

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FEB 28 2008

OFFICE OF PETITIONS

In re Application of
Alejandro Junger et al.
Application No. 10/271,857
Filed: October 16, 2002
Attorney Docket No.: **SAN04 P-300**

ON PETITION

This is a decision on the petition filed December 19, 2007 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed July 7, 2004. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned October 12, 2004. Accordingly, a Notice of Abandonment was mailed February 4, 2005.

This matter is being referred to Technology Center 3634 for appropriate action on the amendment filed December 19, 2007.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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MINNEAPOLIS, MN 55402-0903

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APR 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Stephane Binon et al :
Application No. 10/271,907 : DECISION ON PETITIONS
Filed: October 15, 2002 :
Attorney Docket No. 11123.47US01 :

This is a decision on the petition under 37 CFR 1.313(c), filed March 29, 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. This is also a decision on the petition under 37 CFR 1.47(b), filed March 29, 2005, which is being treated as a petition under 37 CFR 1.47(a).[1]

The petition under 37 CFR 1.313(c)(2) is **GRANTED**.

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

Discussion of Petition under 37 CFR 1.313(c)(2)

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 18, 2004 in the above-identified application cannot be refunded. If, however, the above-identified

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[1] A petition under 37 CFR 1.47(b) is inappropriate in this instance since all but one of the inventors have signed the declaration. A petition under 37 CFR 1.47(b) is only appropriate where none of the inventors will sign. Accordingly, the petition will be treated as a petition under 37 CFR 1.47(a).

The petition originally filed on May 20, 2003 has not to date been associated with the instant application file.

application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [2]

Discussion of Petition under 37 CFR 1.47(a)

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

This matter is being referred to Technology Center AU 3672 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Frances Hicks

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OLIVIER VACHER
52 RUE DE VIEUX CAHTEAU
27200 VERNON, FRANCE

AIRMAIL

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OFFICE OF PETITIONS

In re Application of
Binon; Quandalle; Vacher; and Viroles
Application No. 10/271,907
Filed: October 15, 2002
For: BORE BIT FOR VERY HARD MATERIAL

Dear Mr. Vacher:

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 (571) 272-3220. 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:
MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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MAIL

AUG 1 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

In re Application of:
Eran Peled
Application No. 10/271,927
Filed: October 16, 2002
For: **SYSTEM AND METHOD FOR SYNCHRONIZING BETWEEN COMMUNICATION TERMINALS OF ASYNCHRONOUS PACKETS NETWORKS**

DECISION ON PETITION

This is a response to the petition to withdraw holding of abandonment, filed August 8, 2005.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a response to the Office action mailed May 19, 2004 which set a shortened statutory period of three (3) months to reply. No Notice of Abandonment has been mailed.

Petitioner alleges to have timely filed a response to the Office action on August 19, 2004. To support this position, Petitioner has included with the instant petition a copy of the response bearing a proper certificate of facsimile transmission with a transmission date of August 19, 2004. Also included with the petition is a copy of an Auto-Reply Facsimile Transmission indicating that a 9 page document from Petitioner was received in the U.S. Patent and Trademark Office on August 19, 2004.

37 C.F.R. § 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Petitioner has met the requirements above. Accordingly, the holding of abandonment is withdrawn.

The application will be forwarded to the Technology Center's technical support staff for appropriate processing and entry; and from there, the file will be forwarded to the examiner for further examination in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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JENNER & BLOCK LLP
ONE IBM PLAZA
CHICAGO IL 60611

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OFFICE OF PETITIONS

In re Application of	:	
Caldwell, et al.	:	
Application No. 10/271,933	:	ON PETITION
Filed: October 15, 2002	:	
Attorney Docket No. 37041-10779	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed June 8, 2007.

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

This application was held abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed November 30, 2006. This Notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on March 1, 2007. A Notice of Abandonment was mailed on May 10, 2007.

Petitioner contends that he did timely file the issue fee. In support, petitioner has included a copy of a USPTO date stamped postcard receipt dated February 28, 2007, and itemizing an issue fee transmittal form with an authorization to charge a deposit account.

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.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

Receipt of the issue fee, submitted with the instant petition, is acknowledged.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

LEE & HAYES, PLLC
421 W. RIVERSIDE AVE., STE 500
SPOKANE, WA 99201

In re Application of
Frederick A. Ware et al
Application No. 10/271,936
Filed: October 15, 2002
Attorney Docket No. RB1-024USC2

ON PETITION

This is a decision on the petition, filed October 16, 2003, 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 August 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 Irvin Dingle at (703) 306-5684.

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

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

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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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P.O. BOX 2999, STATION D
900-55 METCALFE STREET
OTTAWA, CANADA K1P5Y-6

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OFFICE OF PETITIONS

In re Application of	:	
Tanya Anne SHAW-WEEKS	:	
Application No. 10/271,987	:	DECISION ON PETITION
Filed: October 17, 2002	:	
Attorney Docket No. 79624-6/ala	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 9, 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 23, 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 May 24, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2674 for appropriate action by the Examiner in the normal course of business on the reply received May 9, 2007.

April Wise
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of Nakamura et al. :
Application No. 10/272,009 :
Filing Date: October 17, 2002 :
Attorney Docket No. 021359 :

Decision on Petition

This is a decision on the petition filed May 8, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

The *current* facts of record fail to indicate the holding of abandonment should be withdrawn.

Facts:

The application was filed October 17, 2002. Per the declaration filed on the same date, the representatives of record became the individuals associated with customer number 23850, and the address of record became the address associated with customer number 23850.

A non-final Office action was mailed June 10, 2004.

A reply was filed October 8, 2004. The reply was accompanied by a request to change the address of record to the address associated with customer number 38834. Stephen Adrian signed the declaration.

A review of the papers filed October 8, 2004, fails to indicate Stephen Adrian had the authority to change the address of record. Therefore, the failure to change the address to the address associated with customer number was correct.

Inexplicably, the Office changed the address of record to the address associated with customer number 23117 (Nixon & Vanderhye, PC).

A non-final Office action was mailed to Nixon & Vanderhye on December 29, 2004.

Petitioner filed a reply on April 29, 2005.

A Notice of Non-Compliant Amendment was mailed July 22, 2005. Six business days later, on August 1, 2005, a reply was filed.

A final Office action was mailed October 13, 2005.

A Notice of Abandonment was mailed May 1, 2006.

Petitioner contends the final Office action was mailed to an incorrect address and never received.

Discussion:

The Office seeks clarification of the facts as well as additional information.

The reply was accompanied by a request to change the address of record to the address associated with customer number 38834. Stephen Adrian signed the declaration. A review of the papers filed October 8, 2004, fails to indicate Stephen Adrian had the authority to change the address of record. Therefore, the failure to change the address to the address associated with customer number was correct.

Issue 1:

The Office changed the address to the address for Nixon & Vanderhye. The file wrapper fails to include a request for a change of address to Nixon & Vanderhye. Normally, the Office would conclude the change was the result of clerical error and improper. However, petitioner responded to two papers mailed to Nixon & Vanderhye. The Office requests petitioner explicitly state it has no knowledge of any reason the Office may have changed the address to Nixon & Vanderhye other than a clerical error by the Office.

Issue 2:

Assuming the Office should not have sent correspondence to Nixon & Vanderhye, then the correspondence should have been sent to the address associated with customer number 23850. Petitioner should discuss whether or not the final Office action would have been forwarded and received by petitioner if the final Office action had been sent to customer number 23850.

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, and request to change the address of record, 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.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time

under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

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

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

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OFFICE OF PETITIONS

In re Application of Nakamura et al. :
Application No. 10/272,009 : Decision on Petition
Filing Date: October 17, 2002 :
Attorney Docket No. 021359 :

This is a decision on the renewed petition filed August 16, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **granted**.

A final Office action was mailed October 13, 2005. The Office failed to receive a reply. As a result, a Notice of Abandonment was mailed May 1, 2006.

Petitioner has established the final Office action was mailed to an incorrect address and never received.

The final Office action mailed October 13, 2005, is hereby vacated and withdrawn.

The Notice of Abandonment mailed May 1, 2006, is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 1756 will be informed of the instant decision. Thereafter, the examiner will consider the IDS filed May 16, 2006, and mail a new final Office action. The time period for responding to the new final Office action will be set to run from the mailing date of the new final Office action.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

J. Andrew McKinney, Jr.
2 Hopkins Plaza
600 Mercantile Bank & Trust Bldg.
Baltimore, MD 21201

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APR 2 8 2003

OFFICE OF PETITIONS

In re Application of
Roark et al.
Application No. 10/272,022
Filed: October 16, 2002
Attorney Docket Number: 4263.003

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR §1.47(a), filed January 16, 2003.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR §1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventors. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR §1.136(a).

The above-identified application was filed on October 16, 2002, without a signed oath or declaration.

Accordingly, on November 18, 2002, a "Notice to File Missing Parts of Application" was mailed, for the purposes of this decision, requiring an executed oath or declaration and the $130.00 surcharge for its late filing.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, a declaration of facts, correspondence from inventor Roark and a partially executed declaration.

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

As to item (2), the declaration only has a signature where non-signing inventor Roark would sign. If inventor Roemer is signing on behalf of Roark, Roemer must sign the declaration where his information is provided and inventor Roemer may chose to leave inventor Roark's signature block blank or since there are only two inventors he may sign in Roark's signature block as well. However, inventor Roemer as the only signing inventor must sign his signature block.

The Office acknowledges receipt of the replacement drawings submitted with the instant petition.

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

By mail:	Commissioner for Patents Box DAC Washington, D.C. 20231
By FAX:	(703) 308-6916 Attn: Office of Petitions
By hand:	Crystal Plaza Four, Suite 3C23 2201 S. Clark Place Arlington, VA 22202

Telephone inquiries related to this decision may be directed to 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
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Paper No. 9

J. Andrew McKinney, Jr.
2 Hopkins Plaza
600 Mercantile Bank & Trust Bldg.
Baltimore, MD 21201

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OFFICE OF PETITIONS

In re Application of
Richard Roarke and Daniel Roemer
Application No.10/272,022
Filed: October 16, 2002
Attorney Docket Number: 4263.003
Title of Invention: FIELD REBUILDABLE LOW FREQUENCY LOUDSPEAKER DRIVER HAVING A REMOVABLE DIAPHRAGM ASSEMBLY, PARTS KIT AND METHOD FOR REBUILDING A LOUDSPEAKER DRIVER IN THE FIELD

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed June 26, 2003.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition attest a copy of the application was sent to non-signing inventor's last known address. Non-signing inventor indicated in a letter ,which has been provided, he refused to execute the application documents. Accordingly, the non-signing inventor's failure to respond to the application sufficiently establishes that he refuses to execute the application papers.

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

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

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

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

Charlema R. Grant
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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Daniel F. Roemer
3208 Country Grove Drive
Madison, WI 53719

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OFFICE OF PETITIONS

In re Application of
Richard Roarke and Daniel Roemer
Application No.10/272,022
Filed: October 16, 2002
Attorney Docket Number: 4263.003
Title of Invention: FIELD REBUILDABLE LOW FREQUENCY LOUDSPEAKER DRIVER HAVING A REMOVABLE DIAPHRAGM ASSEMBLY, PARTS KIT AND METHOD FOR REBUILDING A LOUDSPEAKER DRIVER IN THE FIELD

LETTER

Dear Mr. Roemer:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper In the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

J. Andrew McKinney, Jr.
2 Hopkins Plaza
600 Mercantile Bank & Trust Bldg.
Baltimore, MD 21201

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PETITION MOOT
APPLICATION ALLOWED

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

HIEN H. PHAN
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 2800

In re the Application of:

R. Roark and D. Roemer

Group Art Unit: 2837

Application No.: 10/272,022

Examiner: Kimberly R. Lockett

Filed: 10/16/02

Attorney Dkt. No.: (new) 1509.130

For: FIELD REBUILDABLE LOW FREQUENCY LOUDSPEAKER DRIVER HAVING A REMOVABLE DIAPHRAGM ASSEMBLY, PARTS KIT AND METHOD FOR REBUILDING A LOUDSPEAKER DRIVER IN THE FIELD

PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102

Commissioner for Patents
Washington, DC 20231

Sir:

Kindly grant the following Petition to further advance the application out of turn for the reasons following:

Applicant asserts that the invention of the subject application is special on the grounds of Infringement.

Applicant has discovered numerous "knockoff" products incorporating the novel features of the instant invention on the market. The undersigned attorney has conducted a rigid comparison of the alleged infringing products with the claims of this application and, in the opinion of the undersigned attorney, some of the claims are unquestionably infringed. Applicant has a performed a search of the prior art, and all of the relevant prior art has been cited in an information disclosure statement accompanied with copies.

Applicant has attached a copy of web page promotional materials showing two examples of the allegedly infringing products.

Applicant further asserts that Applicant has become familiar with and has a good knowledge of the competition and the relevant prior art, and that it appears that the

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OFFICE OF PETITIONS

JOSE G. MONIZ
RAMBUS INC.
4440 EL CAMINO REAL
LOS ALTOS CA 94022

In re Application of :
Richard E. Perego et al :
Application No. 10/272,024 : ON PETITION
Filed: October 15, 2002 :
Attorney Docket No. RA158C :

This is a decision on the petition, filed by facsimile transmission on September 25, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 17, 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]

The instant petition under 37 CFR 1.313(c)(2), the RCE and the IDS, filed on September 25, 2003, are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Kirk J. DeNiro 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. DeNiro 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. DeNiro, the petitioner herein. Until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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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).

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

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center Art Unit 2188 for processing of the request for continued examination under 37 CFR 1.114 filed September 25, 2003.

Karen Creasy

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

cc:

VIERRA MAGEN MARCUS HAMON & DENIRO
685 MARKET STREET, SUITE 540
SAN FRANCISCO, CA 94105-4206

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

Date : September 26, 2003

TO : Director, Office of Publication and Dissemination

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Richard E. Perego et al
Application No. : 10/272,024
Filed : October 15, 2002

The above-identified application has been assigned Patent No. 6,631,438 and an issue date of October 7, 2003.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of October 7, 2003:

> "All reference to Patent No. 6,631,438 to Richard E. Perego et al of California for INTEGRATED CIRCUIT BUFFER DEVICE appearing in the Official Gazette of October 7, 2003 should be deleted since no patent was granted."

Karen Creasy

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

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis, P/OCS, CM1-6A07
Tamara Greene, Crystal Park 3-908

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOSE G. MONIZ
RAMBUS INC.
4440 EL CAMINO REAL
LOS ALTOS CA 94022

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AUG 1 1 2005

OFFICE OF PETITIONS

In re Application of :
Richard E. Perego et al :
Application No. 10/272,024 :
Filed: October 15, 2002 :
Attorney Docket No. RA158C :

ON PETITION

This is a decision on the petition, filed August 10, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 2, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

---

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

The examiner of Technology Center AU 2189 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

cc:
VIERRA MAGEN MARCUS HARMON & DENIRO LLP
685 MARKET STREET, SUITE 540
SAN FRANCISCO, CA 94105-4206

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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KIRK J. DENIRO
VIERRA MAGEN MARCUS HARMON & DENIRO
685 MARKET STREET, SUITE 540
SAN FRANCISCO CA 94105

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OCT 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Richard E. Perego et al	:	
Application No. 10/272,024	:	ON PETITION
Filed: October 15, 2002	:	
Attorney Docket No. RAM-01049UAO	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 30, 2005 requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance was mailed on August 23, 2005, with the issue fee being due on or before November 23, 2005. The petition states that the issue fee in this case has not been paid.

37 CFR 1.313(c)(2) provides for withdrawal of an application from issue after payment of the issue fee. In the instant case, as noted above, the issue fee in reply to the Notice of Allowance of August 23, 2005, has not been received. Therefore, the filing of a petition to withdraw this application from issue is unnecessary at this time. The mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue.

The $130 fee submitted for the petition under 37 CFR 1.313(c)(2) will be refunded to petitioner's deposit account.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2189 for appropriate processing of the RCE filed September 30, 2005 and consideration of the IDS submitted concurrently therewith.

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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JJGJR.: 06-05

Paper No: __

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JUN 14 2005

OFFICE OF PETITIONS

ALAN W. CANNON
834 SOUTH WOLFE ROAD
SUNNYVALE CA 94086

In re Application of	:	
Green, et al.	:	
Application No. 10/272,036	:	DECISION
Filing Date: 15 October, 2002	:	
Attorney Docket No.GUID-014CON	:	

This is a decision on the petition filed on 11 February, 2005, under 37 C.F.R. §1.183, and considered alternatively as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition under 37 C.F.R. §1.183 is **DISMISSED**, and the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.183."

(It is noted, however, that it appears at this writing that Petitioner may be unable to present a satisfactory showing to support a petition under 37 C.F.R. §1.183, and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 18 June, 2004, with reply due absent extension of time on or before Monday, 20 September, 2004;
- On 27 September, 2004, Petitioner filed (contemporaneously with a request and fee for a one- (1-) month extension of time) an after-final amendment, which the Examiner found was not a proper reply (in that it did not *prima facie* place the application in condition for allowance[1]), and on 25 January, 2005, the Examiner mailed an Advisory Action;
- the application went abandoned after midnight 18 October, 2004;
- it appears that no Notice of Abandonment was mailed before the instant petition was filed;
- Petitioner filed, contemporaneously with the instant petition, a request for continued examination (RCE) with fee and pointed to the after-final amendment as the submission under 37 C.F.R. §1.114.

ANALYSIS

Having failed to file a timely and proper response to the final rejection mailed by the Examiner–and so allowed his application to go abandoned–Petitioner contends that the Office should waive not only the Rules of Practice but statute as well (35 U.S.C. §133) under 37 C.F.R. §1.183[2] and enter Petitioner's RCE.

In short, Petitioner requests waiver under 37 C.F.R. §1.183 time period for reply to an Office action.

As one registered to practice before the Office, Petitioner is well aware that:

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[1] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or RCE (with fee and submission). (See: MPEP §711.03(c).)

[2] The regulations at 37 C.F.R. §1.183 provide, in pertinent part:
§1.183 Suspension of the Rules.
In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. * * *

- suspension of the rules under 37 C.F.R. §1.183 may be granted only in an "extraordinary situation, when justice requires"–and that authority attaches only to a "requirement of the regulations * * * which is not a requirement of the statutes * * *" (Emphasis supplied.); and

- the reply period is set by statute, to wit:

> **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 Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable. (Amended Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-582 (S. 1948 sec. 4732(a)(10)(A)).) (Emphasis supplied.)

When the Examiner did not enter Petitioner's after-final amendment–entry of which was not of right–Petitioner could have, but failed to, file on or before Monday, 20 December, 2004, an RCE (with submission and fee) along with a request and fee for a proper extension of time.

The showing of record is that Petitioner:

- knew or should have known that adequate provisions for ensuring timely and proper reply to a final Office action mailed by the Examiner was required during the period in question; and

- allowed that deadline to come and go without taking action.

Petitioner's failure to act created no "extraordinary situation" requiring the invocation of the interests of justice.

The Office, where it has the power to do so, should not relax the requirements of established practice in order to save an applicant from the consequence of his delay.[3]

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[3] See, Ex Parte Sassin, 1906 Dec. Comm'r. Pat. 205, 206 (Comm'r Pat. 1906) and compare Ziegler v. Baxter v. Natta, 159 USPQ 378, 379 (Comm'r Pat. 1968) and Williams v. The Five Platters, Inc., 510 F.2d 963, 184 USPQ 744 (CCPA 1975). Thus, there is no adequate showing of "an extraordinary situation" in which "justice requires" suspension of the time period set forth in 37 C.F.R. 1.193(b). See, Nitto Chem. Indus. Co. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (circumstances are not extraordinary, and do not require waiver of the rules, when a party makes an avoidable mistake in filing papers). Circumstances resulting from petitioner's failure to exercise due care, or lack of knowledge of or failure to properly apply the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice require the granting of relief. See, In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); In re Bird & Son, Inc. 195 USPQ 586, 588 (Comm'r Pats. 1977).

Moreover, the Office has no authority to waive the statutory period for reply.

Thus, Petitioner seeks a waiver pursuant to 37 C.F.R. §1.183[4] that is neither justified nor permitted.

Accordingly, the petition under 37 C.F.R. §1.183 is **dismissed**.

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[5]

Petitioner has neither alleged nor made a showing that:

- he did not receive the 18 June, 2004, final Office action; or
- he submitted a timely and proper reply (an amendment that *prima facie* placed the application in condition for allowance, a Notice of Appeal (with fee), or an RCE (with submission and fee).

Thus, Petitioner has made no satisfactory showing in support of withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

Accordingly, the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

As noted above, it appears that Petitioner may be unable make a showing to support the instant petition, and Petitioner's only alternative to irretrievable abandonment appears to be a petition alleging unintentional delay under 37 C.F.R. §1.137(b).[6]

Therefore, Petitioner may wish to consider filing a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay.

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[4] Delay resulting from the inadvertence or mistake of Petitioner does not warrant equitable tolling of the time period of 37 C.F.R. §1.193(b). Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable, due care and diligence. U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983); Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Even assuming *arguendo*, that clerical inadvertence or error caused or contributed to the delay in filing the Reply Brief, such is not a ground for requesting waiver of the regulations. See In re Kabushiki Kaisha Hitachi Seisakusho, 39 USPQ2d 1319, 1320 (Comm'r Pat. 1994).

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

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

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the RCE, fee, and submission), the petition fee, and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional."

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

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

By FAX: IFW Formal Filings
(703) 872-9306
ATTN.: Office of Petitions

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JJGJR.: 06-05

Paper No: __

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JUL 1 5 2005

OFFICE OF PETITIONS

ALAN W. CANNON
834 SOUTH WOLFE ROAD
SUNNYVALE CA 94086

In re Application of	:	
Green, et al.	:	
Application No. 10/272,036	:	DECISION
Filing Date: 15 October, 2002	:	
Attorney Docket No. GUID-014CON	:	

This is a decision on the petition filed on 23 June, 2005, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 18 June, 2004, with reply due absent extension of time on or before Monday, 20 September, 2004;

- On 27 September, 2004, Petitioner filed (contemporaneously with a request and fee for a one- (1-) month extension of time) an after-final amendment, which the Examiner found was not a proper reply (in that it did not *prima facie* place the application in condition for allowance[1]), and on 25 January, 2005, the Examiner mailed an Advisory Action;

[1] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or RCE (with fee and submission). (See: MPEP §711.03(c).)

- the application went abandoned after midnight 18 October, 2004;
- it appears that no Notice of Abandonment was mailed before the original petitions were filed;
- Petitioner filed, contemporaneously with the original petitions 37 C.F.R. §1.183 and §1.181 (to waive the rules and withdraw the holding of abandonment, respectively), a request for continued examination (RCE) with fee and pointed to the after-final amendment as the submission under 37 C.F.R. §1.114, however, the petitions were dismissed on 14 June, 2005, for failing to make a proper and satisfactory showing;
- with the existing petition (with fee) alleging unintentional delay, Petitioner points to the RCE with fee and submission previously filed as his reply, and makes the statement of unintentional delay. (Petitioner submitted and was charged for a second REC, and this latter fee is refunded.)

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing

---

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to Unintentional Delay

A grantable petition under 37 C.F.R. §1.137(b) requires a petition, fee, statement of unintentional delay, reply, and a terminal disclaimer and fee if appropriate.

Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center 3700 for further processing in due course.

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

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

---

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Elliot Furman
Skymoon Ventures
3045 Park Blvd.
Palo Alto CA 94306

MAILED

SEP 17 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of:
Tzamaloukas, Assimakis et al.
Application No.10/272039
Filed: October 15, 2002
For: ENHANCED MOBILE COMMUNICATION DEVICE, AND TRANSPORTATION APPLICATION THEREOF

: DECISION ON REQUEST
: FOR WITHDRAWAL OF
: ATTORNEY

This is a decision on the request filed on July 7, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

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

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved as moot because the attorney making the request; Elliot Furman, Reg. No. 48,848, does not now have, and apparently never has had, power of attorney in this application.

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

KJD/en 9/12/03

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUL 13 2004

Paper No. 5

In re Application of
Karen Johnson
Application No. 10/272,044
Filed: October 16, 2002
For: Plastic Lid for Cat Food Can

DECISION ON PETITION

The papers filed by facsimile transmission on June 9, 2004 are being considered as a petition under 37 CFR 1.181 to withdraw the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the Office action dated October 22, 2003. There is no fee for the petition.

The petition is dismissed.

Petitioner appears to allege that a reply to the Office letter in question was in fact filed in January, 2004. Petitioner has supported this allegation by furnishing a copy of the reply that was purportedly filed, and a copy of a FedEx standard overnight shipping label.

Petitioner is advised that pursuant to Section 1.6 of Title 37 of the Code of Federal Regulations (37 CFR 1.6), correspondence is considered to be filed in the Office when it is received in the Office. An exception for certain types of correspondence, including a reply filed to an Office action in a patent application, is established by 37 CFR 1.8. A copy of this regulation, a copy of an acceptable certificate of mailing form pursuant to this regulation, and a copy of an acceptable certificate of transmission pursuant to this regulation, are attached for petitioner's use if petitioner files correspondence in the future. The forms may be copied. A review of the copy of the reply attached to the petition shows that it does not meet the requirements of 37 CFR 1.8 as the reply was not accompanied by a 37 CFR 1.8 certificate.

37 CFR 1.10 establishes another exception for certain types of correspondence. This regulation is premised on mail having been sent utilizing the United States Postal Service Express Mail Post Office to Addressee service. As it appears that petitioner did not mail the reply utilizing this service, petitioner cannot rely on the exception established by this regulation. A copy of the regulation is attached to this decision.

Petitioner has not furnished any evidence that the reply attached to the petition was actually received in the Office on or before January 22, 2003, the date established by the Office letter of October 22, 2003 for filing a reply. In this regard, petitioner should note that even if weight could be given to the FedEx shipping label, there is nothing on the label which identifies what was shipped, and therefore, there would be nothing to establish that the copy of the reply furnished with the petition was in fact the item shipped via FedEx. However, as noted above, absent compliance with either 37 CFR 1.8 or 37 CFR 1.10, correspondence must be received in the Office in order to be considered to have been filed on the date that it was received in the Office.

Petitioner is entitled to file a renewed petition under 37 CFR 1.181, without fee, in order to furnish any evidence that petitioner has that would show that a reply to the October 22, 2003 Office letter in this application was actually filed (that is, received in the Office) on or before January 22, 2003. However, petitioner may wish to consider filing a petition to revive this application.

A petition to revive may be appropriate if applicant's failure to respond or to timely respond was either unavoidable or unintentional, as set forth below.

A. Failure to respond was unavoidable.

A petition to revive an abandoned application on the grounds that the failure to respond was unavoidable (37 CFR 1.137(a)) must be accompanied by a showing that the entire delay in filing the required reply from the due date thereof until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable delay, by a proposed reply, and by the petition fee of $ 55.00. No consideration to the substance of a petition will be given until this fee is received.

B. Failure to respond was unintentional.

A petition to revive an abandoned application on the grounds that the failure to respond was unintentional (37 CFR 1.137(b)) must be accompanied by a statement that the entire delay in filing the required reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, the required reply unless it has been previously filed, and the petition fee of $ 665.00.

Correspondence with respect to a petition to revive should be sent in an envelope addressed to:

Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313-1450

Please address the contents of the letter to the Attention of the Office of Petitions.

Copies of a form for each of these petitions are attached for petitioner's convenience. These forms may be photocopied.

In summary, petitioner has not established that a timely reply to the Office letter dated October 22, 2003 was in fact filed, that is, received in the Office, on or before the deadline set by that Office letter. Petitioner can file a renewed petition in order to furnish any additional evidence showing that the reply was in fact file, that is, received in the Office prior to the deadline. Alternatively, petitioner may file a petition to revive this application under either 37 CFR 1.137(a) or 37 CFR 1.137(b), together with the fee appropriate to the type of petition filed.

Questions regarding this decision may be directed to Stephen Marcus, Special Program Examiner, Technology Center 3700 who may be reached at (703) 308-3872.

The application is being returned to storage as an abandoned file.

PETITION DISMISSED.

E. Rollins-Cross, Director
Technology Center 3700

Attachments

Karen Johnson
Apt. 4.609 Rollins Road
Burlingame, CA 94010

UNITED STATES PATENT AND TRADEMARK OFFICE

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

11/14/07

Karen Johnson
Apt. 4
609 Rollins Road
Burlingame CA 94010

In re Application of:
Johnson, Karen Lynn
Serial No.: 10/272,044
Filed: Oct. 16, 2002
Docket: n/a
Title: PLASTIC LID FOR CAT FOOD CAN

Decision on Petition

This is a decision on the renewed petition filed on Aug. 19, 2004 requesting reconsideration of an earlier decision mailed Jul 13, 2004 denying the withdrawal of abandonment mailed May 17, 2004. This renewed petition is being treated as a petition under 37 CFR § 1.181. No fee is required.

The petition is dismissed.

The application was held abandoned for failure to timely and properly reply to the Office action mailed Oct. 22, 2003. The Office action set a three (3) month period for reply. No response was received and no extensions of time under 37 CFR § 1.36(a) were requested. Accordingly the present application became abandoned on Jan. 23, 2004. Notice of abandonment was mailed on May 17, 2004.

In the renewed petition filed on Aug. 19, 2004, petitioner still has not furnished any evidence that the reply attached to the original petition of Jun. 9, 2004 was actually received in the Office on or before January 22, 2004. The submission of a carbon copy of the Notice of publication of application sent to the applicant in April 2004 has nothing to do with responding to the outstanding Office action of Oct. 22, 2003. As noted in the previous decision of Jul. 13, 2004, absent compliance with either 37 CFR § 1.8 or 37 CFR § 1.10, correspondence must be received in the Office in order to be considered to have been filed on the date that it was received in the Office.

Since the petitioner has not satisfied the requirements set forth in 37 CFR §1.8 or 37 CFR §1.10, the petition is hereby dismissed. The holding of abandonment remains.

Any Request for Reconsideration of Petition along with the necessary supporting documents must include some evidence of receipt of the response by the Office that was timely must be made within TWO (2) MONTHS from the mail date of this decision under 37 CFR § 1.181(f). No 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 1.181". Alternatively, the

applicant may wish to consider filing a petition to revive under 37 CFR 1.137(b). The rules and MPEP sections cited, along with the forms and fees associated for each may be found on the USPTO website at: www.uspto.gov. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner at (571)-272-4856.

PETITION DISMISSED

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

JENNER & BLOCK
ONE IBM PLAZA
CHICAGO, IL 60611

COPY MAILED

MAR 1 3 2003

OFFICE OF PETITIONS

In re Application of :
David W. Caldwell :
Application No. 10/272,047 : NOTICE
Filed: October 15, 2002 :
Attorney Docket No. 37041-10787 :

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/272,065	10/16/2002	Grant E. Wylie	ULB-006

CONFIRMATION NO. 8798

OC000000011246331

Kenneth J. LuKacher, Esq.
South Winton Court
Suite 204
3136 Winton Road South
Rochester, NY 14623

Date Mailed: 11/12/2003

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 04/22/2004.

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 (703) 305-9282. 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".

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KENYON & KENYON LLP
RIVERPARK TOWERS, SUITE 600
333 W. SAN CARLOS ST.
SAN JOSE, CA 95110

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OFFICE OF PETITIONS

In re Application of Edward Allyn BURTON Application No. 10/272,075 Filed: October 15, 2002 Attorney Docket No. **2207/450502**	: : : : :	ON PETITION

This is a decision on petition under 37 CFR 1.137(b), filed on January 25, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed on June 3, 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, by operation of law, on September 4, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) a reply in the form of the argument and amendment under 37 CFR 1.111; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office Action of June 3, 2005 is accepted as having been unintentionally delayed.

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

Telephone inquiries concerning this decision should be directed to Anatoly Vortman at (571) 272-6051, or in his absence to the undersigned at (571) 272-7099.

Application No. 10/272,075

The application file is being referred to Technology Center AU 2841 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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THELEN REID & KREBS
THELEN REID & PRIEST LLP
PO BOX 640640
SAN JOSE, CA 95164-0640

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Zjemgui Zhang, et. al.	:	
Application No. 10/272,077	:	DECISION ON PETITION
Filed: October 15, 2002	:	TO WITHDRAW
Attorney Docket No. XMPLP001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 10, 2006.

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

A review of the file record indicates that the power of attorney to THELEN REID & KREBS has been revoked by the assignee of the patent application on July 24, 2008. 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: Beyer Law Group LLP
P.O. BOX 1687
Cupertino CA 95015-1687

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Paper No. 7

THE GLAD PRODUCTS COMPANY
P.O. BOX 24305
OAKLAND, CA 94623-1305

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MAR 1 2 2004
OFFICE OF PETITIONS

In re Application of
Tucker et al.
Application No. 10/272,080
Filed: October 16, 2002
Attorney Docket No. 492.254C

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 25, 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 6, 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 7, 2003. A Notice of Abandonment was mailed on January 27, 2004.

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

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

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO IL 60604

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JUN 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Hironori Kobayashi	:	
Application No. 10/272,096	:	DECISION ON PETITION
Filed: October 16, 2002	:	
Attorney Docket No. CU-3015	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 2, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the publication fees on or before December 29, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed September 29, 2006. Accordingly, the date of abandonment of this application is December 30, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the publication fee of $300, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS FL 33410

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AUG 0 2 2005

OFFICE OF PETITIONS

In re Application of
McGuire
Application No. 10/272,116
Filed: October 16, 2002
Attorney Docket No. 2016.015
FOR: HIGH IMPACT WATER JET NOZZLE

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed May 18, 2005 (certificate of mailing date May 16, 2005), to revive the above-identified application, 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 to withdraw the holding of abandonment is **GRANTED**.

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

The above-identified application became abandoned for failure to timely reply to the Notice of Allowance and Fee(s) Due, mailed September 10, 2004, which set a period for reply of three (3) months. Having received no reply, the Office deemed this application abandoned on December 11, 2004. A Notice of Abandonment was mailed on January 20, 2005, but was returned to sender.

Petitioner alleges that he did not receive the September 10, 2004 Notice. The undersigned finds this assertion completely convincing because the Notice is present in the application file as returned to sender. The applicant filed a Change of Correspondence Address for all cases under customer number 21917. This was entered into Office databases on September 5, 2003. However, on September 9, 2003, the address was inexplicably changed back to the original address of record. There is no record of a second request to restore the original address of record present in the application file and an attorney of record asserts that none has been filed. It logically follows that the September 10, 2004 Notice and January 20, 2005 Notice of Abandonment were mailed to an incorrect address due to Office clerical error.

The petition under 37 CFR 1.181 is granted. The holding of abandonment is withdrawn.

The petition under 37 CFR 1.137(a) is dismissed as moot. No petition fee has been or will be charged in connection with this matter.

The correspondence address of record has been restored to the address that corresponds to customer number 21917.

After the mailing of this decision, the application will be returned to Technology Center AU 3752 for the re-mailing of the September 10, 2004 Notice of Allowance and Fee(s) Due with a new period for response.

Telephone inquiries 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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Paper No. 20

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

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JUL 0 9 2004

OFFICE OF PETITIONS

In re Application of
Catherine Dinhobl
Application No. 10/272,134
Filed: October 16, 2002
Attorney Docket No. AT010064

: 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 26, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed October 9, 2003.

The petition is **GRANTED**.

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

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

---

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

The instant pending application was filed on October 16, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

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

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

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

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

This application is being forwarded to Technology Center Art Unit 3654 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed nonprovisional Application No. 09/643,317, filed August 21, 2000, and to consider the RCE submitted June 24, 2004.

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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BRADLEY ARANT ROSE & WHITE, L.L.P.
INTELLECTUAL PROPERTY
DEPARTMENT – NWJ
1819 FIFTH AVENUE NORTH
BIRMINGHAM, AL 35203-2104

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AUG 01 2008

In re Application of	:	
Kappes et al.	:	
Application No. 10/272,147	:	DECISION ON PETITION
Filed: October 15, 2002	:	
Attorney Docket No. P83409US15GP	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 25, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a proper After-Final Amendment, (2) the petition fee of $770.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 1636 for examination in due course.

Liana Walsh
Petitions Examiner
Office of Petitions

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DEC 09 2004

Technology Center 2100

In re Application of: NAVEH ET AL.	:	
Appl No.: 10/272,154	:	**DECISION GRANTING**
Filed: October 14, 2002	:	**PETITION**
For: A METHOD AND APPARATUS TO	:	*37 CFR 1.84(a)*
DYNAMICALLY CHANGE AN OPERATING	:	
FREEQUENCY AND OPERATING VOLTAGE	:	
OF AN ELECTRONIC DEVICE	:	
	:	

This is a decision on the petition filed October 24, 2003 to correct inventorship under 37 CFR 1.84(a).

The petition is granted.

The application file is being forwarded to the Technology Center support staff for **adding** (1) Stephen H. Gunther: (2) Robert Greiner: (3) Hung-Piao Ma: (4) Kevin Dai: and (5) Keng Wong as joint inventors.

Thomas C. Lee
Supervisory Patent Examiner
Art Unit 2115
Technology Center 2100

John P. Ward
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

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Paper No. 5

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60611

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FEB 24 2003

OFFICE OF PETITIONS

In re Application of	:	
Michael Johannes Frantzen	:	
Application No. 10/272,162	:	DECISION GRANTING
Filed: 15 October, 2002	:	PETITION
Attorney Docket No. 10541-1625	:	

This is a decision on the petition filed under 37 CFR 1.10(c) on 21 January, 2003 (certificate of mailing 14 January, 2003), requesting that the above-identified application be accorded a filing date of 15 October, 2002, rather than the presently accorded filing date of 17 October, 2002.

Petitioner alleges that the application was deposited in Express Mail service on 15 October, 2002. In support, on 21 January, 2003, petitioner supplied a copy of a U.S. Postal Service Pickup Service Statement--Express Mail, Priority Mail, or Parcel Post bearing Express Mail Label No. EV107432065US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). The USPS Service Statement also bears the signature of a USPS employee and a pickup date of "10/15/02".

In view of the above, the petition is granted. No petition fee is due and none has been paid.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to 15 October, 2002, and for issuance of a corrected filing receipt. Thereafter, the application will be forwarded to Technology Center 3700 for examination in due course.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions

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)
6801323	2004-10-05	10272168	2002-10-16	0248/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	/Francis J. Caufield/	Date (YYYY-MM-DD)	2008-10-10
Name	Francis J. Caufield	Registration Number	27425

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. 6801323
Issue Date: October 5,2004
Application No. 10272168
Filed: October 16,2002
Attorney Docket No. 0248/US

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

This is a decision on the electronic petition, filed October 10,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 10,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

COPY MAILED

MAR 2 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Dennis T. Mangano	:	
Application No. 10/272,187	:	DECISION GRANTING PETITION
Filed: October 15, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 9114-005-999	:	

This is a decision on the petition, filed March 2, 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 14, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of June 30, 2005 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (517) 272-3218.

This matter is being referred to Technology Center Art Unit 1651 for appropriate action on the reply to the nonfinal Office action received December 17, 2004.

Frances Hicks

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GARDERE WYNNE-HOUSTON
1000 LOUISIANA
SUITE 3400
HOUSTON TX 77002

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NOV 2 6 2007

OFFICE OF PETITIONS

In re Application of :
Bruce W. Layman :
Application No. 10/272,197 :
Filed: October 16, 2002 :
Attorney Docket No. 132539-1008 :

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 15, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A three-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is March 16, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 1771 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/272,197	10/16/2002	Bruce W. Layman	132539-1008

CONFIRMATION NO. 9246

POA ACCEPTANCE LETTER

40184
GARDERE WYNNE-HOUSTON
1000 LOUISIANA
SUITE 3400
HOUSTON, TX 77002

OC000000026800451

Date Mailed: 11/19/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/23/2007.

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.

/amwise/

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

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
10/272,197	10/16/2002	Bruce W. Layman	7121-10

CONFIRMATION NO. 9246

POWER OF ATTORNEY NOTICE

38635
ADAMS AND REESE, L.L.P.
4500 ONE SHELL SQUARE
NEW ORLEANS, LA 70139-4596

OC000000026800450

Date Mailed: 11/19/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/23/2007.

- 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).

/amwise/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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GARDERE WYNNE-HOUSTON
1000 LOUISIANA
SUITE 3400
HOUSTON TX 77002

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MAR 18 2008

OFFICE OF PETITIONS

In re Application of	:	
LAYMAN, Bruce W.	:	
Application No. 10/272,197	:	DECISION ON PETITION
Filed: October 16, 2002	:	TO WITHDRAW
Attorney Docket No. **132539-1008**	:	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 12, 2007.

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

A review of the file record indicates that the power of attorney to GARDERE WYNNE-HOUSTON has been revoked by the assignee of the patent application on January 25, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **JOHN S. PRATT, ESQ**
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

JENNER & BLOCK
ONE IBM PLAZA
CHICAGO, IL 60611

COPY MAILED

MAR 13 2003

OFFICE OF PETITIONS

In re Application of	:	
David W. Caldwell	:	
Application No. 10/272,219	:	NOTICE
Filed: October 15, 2002	:	
Attorney Docket No. 37041-10795	:	

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : August 25, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Yuuji Kibuse
Application No. : 10/272,242
Filed : October 16, 2002

The above-identified application has been assigned Patent No. 7,107,288 and an issue date of September 12, 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 September 12, 2006:

> "All reference to Patent No. 7,107,288 to YUUJI KIBUSE, ET AL. of JAPAN for PROGRAM FOR MANAGING EXTERNAL STORAGE, RECORDING MEDIUM, MANAGEMENT DEVICE, AND COMPUTING SYSTEM appearing in the Official Gazette of September 12, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

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KUNZLER & ASSOCIATES
8 EAST BROADWAY
SUITE 600
SALT LAKE CITY, UT 84111

COPY MAILED
AUG 28 2006
OFFICE OF PETITIONS

In re Application of	:	
Yuuji Kibuse	:	
Application No. 10/272,242	:	ON PETITION
Filed: October 16, 2002	:	
Attorney Docket No.: JP920010247US1	:	

This is a decision on the petition, filed August 24, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 15, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2123 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. 121703

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DEC 30 2003
OFFICE OF DIRECTOR
GROUP

Rae-Venter Law Group, P.C.
P.O. Box 1898
Monterey, CA 93942-1898

In re Application of:
RIBI *et al.*
Serial No.: 10/272,251
Filed: October 15, 2002
Attorney Docket No.: **SEGA.001.02US**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed September 29, 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 Barbara Rae Venter, PhD, on behalf of herself and all the attorneys/agents of record.

The request is **APPROVED**. There are no attorneys/agents of record at this time.

All future communications from the Office will be directed Bret Field at the below address, until otherwise notified by applicant.

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

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

cc: Bret Field
Bozicevic, Field & Francis, LLP
200 Middlefield Road, Suite 200
Menlo Park, CA 94025

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United States Patent and Trademark Office
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MICROFABRICA INC.
ATT: DENNIS R. SMALLEY
7911 HASKELL AVENUE
VAN NUYS CA 91406

COPY MAILED
DEC 15 2006
OFFICE OF PETITIONS

In re Application of :
Adam L. Cohen :
Application No. 10/272,255 : ON PETITION
Filed: October 15, 2002 :
Attorney Docket No. **P-US035-A-SC** :

This is a decision on the petition filed August 21, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned July 3, 2006 for failure to timely pay the issue fee on or before June 30, 2006. Accordingly, a Notice of Abandonment was mailed August 1, 2006.

The issue fee, publication fee and petition fee have all been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : October 15, 2009

Patent No. :6759883
Inventor : Tyler J. Gomm
Patent Issued :July 6, 2004
Title :VARIABLE DELAY CIRCUIT AND METHOD AND DELAY LOCKED LOOP, MEMORY DEVICE AND COMPUTER SYSTEM USING SAME

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.

Review of the application file reveals that correspondence to support entry of reference data as noted in applicants' request for correction is not found in the records of the Patent and Trademark office. Accordingly, a signed and dated copy of applicants 1449 or PTO-892 reflecting the requested reference considered by the examiner is required for further consideration. If omitted references were submitted by applicant, a copy of the receipt obtained from this office should be included.

In view of the foregoing, applicants request is hereby denied. Telephone inquiries should be directed to Ms. A. Green at (703) 756-1541.

Mary Diggs, Supervisor
Decisions and Certificates of
Correction Branch
(703) 756-1580 or (703) 756-1541

Edward W. Bulchis
1420 Fifth Ave., Ste 3400
Seattle, WA 98101

/arg

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 21, 2006

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/272283 Patent No.: 7,043,744 B2

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

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

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

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

SPE

2627

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

SHINJYU GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON, DC 20036-2680

COPY MAILED

APR 03 2003

OFFICE OF PETITIONS

In re Application of
Yukitomo Matsumoto, Shigehiro Matsumoto and Kenji Kurihara
Application No. 10/272,289
Filed: October 17, 2002
Attorney Docket Number: NS-US025055
Title of Invention: OIL LEVEL GAUGE GUIDE DEVICE

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed February 27, 2003.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Kyoko Yoshida attest a copy of the application was sent to non-signing inventor's last known address. Non-signing inventor indicated in a telephone conversation he refused to execute the application documents. Accordingly, the non-signing inventor's failure to respond to the application sufficiently establishes that he refuses to execute the application papers.

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

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

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

Exhibit A

OIPE JUN 15 2004 PATENT & TRADEMARK OFFICE

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

SHINJYU GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON, DC 20036-2680

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APR 03 2003

OFFICE OF PETITIONS
DECISION GRANTING STATUS
UNDER 37 CFR 1.47(a)

In re Application of
Yukitomo Matsumoto, Shigehiro Matsumoto and Kenji Kurihara
Application No. 10/272,289
Filed: October 17, 2002
Attorney Docket Number: NS-US025055
Title of Invention: OIL LEVEL GAUGE GUIDE DEVICE

This is in response to the petition under 37 CFR 1.47(a), filed February 27, 2003.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Kyoko Yoshida attest a copy of the application was sent to non-signing inventor's last known address. Non-signing inventor indicated in a telephone conversation he refused to execute the application documents. Accordingly, the non-signing inventor's failure to respond to the application sufficiently establishes that he refuses to execute the application papers.

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

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

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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APR 07 2003
SHINJYU GLOBAL IP COUNSELORS, LLP
ENTERED

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Kenji Kurihara
6-1-44-405 Kounandai
Kounan-Ku, Yokohama-shi
Kanagawa 234-0054
Japan

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APR 0 3 2003

OFFICE OF PETITIONS

LETTER

In re Application of
Yukitomo Matsumoto, Shigehiro Matsumoto
and Kenji Kurihara
Application No. 10/272,289
Filed: October 17, 2002
Attorney Docket Number: NS-US025055
Title of Invention: OIL LEVEL GAUGE GUIDE DEVICE

Dear Mr. Kurihara:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper In the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

David Tarnoff
SHINJYU GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON, DC 20036-2680

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

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DEC 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Rumph et al.	:	
Application No. 10/272,305	:	DECISION ON PETITION
Filed: October 17, 2002	:	
Attorney Docket No. 05092.0038-00000	:	

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

The application became abandoned on September 8, 2005, for failure to file a proper response to the final Office action mailed on March 7, 2005, which set a three (3) month shortened statutory period for reply. On September 7, 2005, petitioner submitted an amendment in response to the final Office action and a request for an extension of time for response within the third month. However, the examiner found that the amendment did not *prima facie* place the application in condition for allowance. An Advisory Action was mailed on September 27, 2005. Thereafter, a Notice of Abandonment was mailed on September 30, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an RCE and a previously filed amendment, paid the petition fee, and made the proper statement of unintentional delay.

Accordingly, the petition under 37 CFR 1.137(b) is **granted**.

This matter is being referred to Technology Center 3629.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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MICHAEL A. O'NEIL, P.C.
5949 SHERRY LANE, SUITE 820
DALLAS, TX 75225

In re Application of Venuto :
Application No. 10/272,308 : Decision on Petition
Filing Date: October 17, 2002 :
Attorney Docket No. 117645-1043 :

This is a decision on the petition filed February 2, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

The PTO appears to have misplaced some of the pages filed with the petition. The Office requests resubmission of a copy of all the papers originally filed March 16, 2005.

Facts:

A final Office action was mailed September 30, 2004.

On March 15, 2005, attorney O'Neil met personally with the examiner and Justin Kimble.

The Interview Summary prepared by the examiner states, "Applicant's arguments and amendment of claims 1 and 10 overcome the final rejections. Applicant will submit the formal amendment and the examiner will conduct more search upon receipt."

On the next day, petitioner sent a reply to the September 30, 2004 Office action, by facsimile transmission. The reply bears a certificate of mailing sheet which indicating an extension of time and amendment were being filed.

A review of the file indicates the presence of some of the papers filed March 16, 2005.

The bottom of the March 16, 2005 papers includes the following notations:

Certificate of Mailing = "Page 1/13"
Transmittal Letter = "Page 2/13"
Petition for Extension of Time = "Page 3/13"

Pages labeled "Page 4/13" to "Page 13/13" cannot be located.

The Office charged $200 to petitioner's deposit account in response to the March 16, 2005 submission based on the addition of 3 independent claims by amendment. Since the pages in the electronic file wrapper do not refer to the number of claims, an amendment must have been present at the time the fee was determined.

A status letter was mailed on August 17, 2005.

An extension of time fee of $510 was incorrectly charged a second time to petitioner's deposit account on September 30, 2005, for unknown reasons. The $510 has been credited back to petitioner's deposit account.

A Notice of Abandonment was mailed January 25, 2006.

The instant petition was filed February 2, 2006. The petition states it is accompanied by a copy of the papers filed March 16, 2005. The file only includes 5 pages labeled as "Page 1/17" to "Page 5/17." The pages in the file include:

Page 1 -	Petition
Pages 2 & 3 -	Copies of Auto-Facsimile Transmission Sheet
Page 4 -	Copy of Certificate of Mailing Page
Page 5 -	Copy of Transmittal Letter

Discussion:

Unfortunately, a full decision on the merits cannot be rendered without receipt of copies of previously supplied papers. Even if the decision were granted, prosecution could not continue without the missing papers.

The Office requests petitioner resubmit the missing pages. The Office apologizes for any inconvenience.

The request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

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

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

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

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

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MICHAEL A. O'NEIL, P.C.
5949 SHERRY LANE, SUITE 820
DALLAS, TX 75225

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In re Application of Venuto :
Application No. 10/272,308 : Decision on Petition
Filing Date: October 17, 2002 :
Attorney Docket No. 117645-1043 :

This is a decision on the petition filed April 19, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

Facts:

A final Office action was mailed September 30, 2004.

On March 15, 2005, attorney O'Neil met personally with the examiner and Justin Kimble.

The Interview Summary prepared by the examiner states, "Applicant's arguments and amendment of claims 1 and 10 overcome the final rejections. Applicant will submit the formal amendment and the examiner will conduct more search upon receipt."

Petitioner filed a reply to the final Office action on the next day. The reply was filed by facsimile transmission. The reply included a certificate of mailing sheet indicating an extension of time and amendment were being filed.

A Notice of Abandonment was mailed January 25, 2006, as a result of some of the March 16, 2005 papers being misplaced.

A petition to withdraw the holding of abandonment was filed on February 2, 2006. The petition included a total of 17 pages. Only 5 pages were scanned into the electronic file wrapper.

A decision was mailed April 12, 2006. The decision requested a new copy of all the papers filed March 16, 2005.

The instant petition was filed April 19, 2006. Although the petition indicates 20 pages were filed, only 9 were matched with the application. None of the 9 sheets include the amendment.

An extension of time fee of $510 was incorrectly charged to petitioner's deposit in response to the copy of the extension of time filed April 19, 2006. The $510 has been credited back to petitioner's deposit account.

Discussion:

As stated in the prior decision, a full decision on the merits cannot be rendered without a copy of the March 16, 2005 papers. Even if the decision were granted, prosecution could not continue without the missing papers.

The undersigned is unaware of any explanation for the repeated loss of pages sent by facsimile transmission. The Office requests a new copy of March 16, 2005 papers be mailed to the Office. The Office also requests petitioner not submit another copy of the previously filed request for extension of time to ensure an extension of time fee is not once again incorrectly charged to petitioner's deposit account.

The Office again sincerely apologizes for any inconvenience.

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

If a decision on the renewed petition is not received within **ONE** month, petitioner should feel free to call the number below to check on the status of the renewed petition.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICHAEL A. O'NEIL, P.C.
5949 SHERRY LANE, SUITE 820
DALLAS, TX 75225

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OFFICE OF PETITIONS

In re Application of Venuto :
Application No. 10/272,308 : Decision on Petition
Filing Date: October 17, 2002 :
Attorney Docket No. 117645-1043 :

This is a decision on the petition filed June 22, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

Facts:

A final Office action was mailed for the instant application on September 30, 2004.

A final Office action was mailed for application no. 10/335,399, on November 24, 2004.

On March 15, 2005, attorney O'Neil met personally with the examiner and Justin Kimble to discuss the instant application *and* application no. 10/335,399.

The Interview Summary prepared by the examiner for the instant application states, "Applicant's arguments and amendment of claims 1 and 10 overcome the final rejections. Applicant will submit the formal amendment and the examiner will conduct more search upon receipt."

On March 16, 2005, papers were filed for the instant application *and* application no. 10/335,399.

One set of papers sent by facsimile transmission included:

(1) A two-page transmittal letter for the instant application,
(2) A one-page request for an extension of time, and
(3) An identical copy of the amendment filed for application no. 10,335,399, on the same date.

Upon receipt of the papers listed above, the Office scanned the three pages listing into the file wrapper for the instant application. The ten-page amendment was scanned into application no. 10/335,399. Office records fail to indicate an amendment was filed for the instant application.

On September 28, 2005, petitioner resubmitted, by facsimile transmission,

(1) A two-page transmittal letter for the instant application,

(2) A one-page request for an extension of time, and
(3) An identical copy of the amendment filed for application no. 10,335,399, on March 16, 2005.

All of the pages filed September 28, 2005, were matched with the file wrapper for application no. 10/335,399.

A Notice of Abandonment was mailed January 25, 2006, as a result of some of the March 16, 2005 papers being misplaced.

A petition to withdraw the holding of abandonment was filed on February 2, 2006. Five pages of the petition were scanned into the file wrapper for the instant application. The copy of the amendment for application no. 10/335,399, was scanned into the file wrapper for application no. 10/335,399.

The petition was dismissed because a copy of the amendment filed with the petition could not be located. The Office of Petitions was unaware the amendment was an identical copy of the amendment filed March 16, 2005 for application no. 10/335,399.

A renewed petition was filed April 19, 2006. The petition pages were matched with the instant file. The copy of the amendment for application no. 10/335,399, was scanned into the file wrapper for application no. 10/335,399.

The renewed petition was dismissed because a copy of the amendment filed with the petition could not be located. The Office of Petitions was unaware the amendment was an identical copy of the amendment filed March 16, 2005 for application no. 10/335,399.

The instant renewed petition was filed June 22, 2006. The petition consists of a cover sheet, a copy of an Auto-Reply Facsimile Transmission and a copy of the amendment filed for application no. 10/335,399, on March 16, 2005.

Discussion:

The record fails to indicate petitioner filed an amendment pertaining to the instant application. Instead, petitioner has simply filed copies of the amendment filed for application no. 10/335,399. Therefore, the holding of abandonment will not be withdrawn.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($750 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a

grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form is enclosed 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 facsimile: (571) 273-8300
Attn: Office of Petitions

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Form PTO/SB/64

PTO/SB/64 (07-06)
Approved for use through 09/30/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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 as (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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MICHAEL A. O'NEIL, P.C.
5949 SHERRY LANE, SUITE 820
DALLAS, TX 75225

In re Application of Venuto :
Application No. 10/272,308 : Decision on Petition
Filing Date: October 17, 2002 :
Attorney Docket No. 117645-1043 :

This is a decision on the petition filed August 16, 2006, under 37 CFR 1.137(b) requesting revival of the 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 and proper manner to the Office action mailed September 30, 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. Accordingly, the above-identified application became abandoned on March 31, 2005. A Notice of Abandonment was mailed on January 25, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 3733 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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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JOHNEY U. HAN
MORRISON & FOERSTER LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

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MAY 1 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Mani Prakash, et al.	:	
Application No. 10/272,314	:	DECISION ON REQUEST
Filed: October 15, 2002	:	TO WITHDRAW
Attorney Docket No. H-US-00948.2	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 13, 2005.

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

The request is signed by Thomas E. Ciotti on behalf of himself and all the attorneys/agents of record. However, a review of the file record indicates that the power of attorney to Thomas E. Ciotti has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Sherry D. Brinkley at 571-272- 3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

cc: UNITED STATES SURGICAL,
A DIVISION OF TYCO HEALTHCARE GROUP LP
195 MCDERMOTT ROAD
NORTH HAVEN CT 06473

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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KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND OR 97204

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JAN 12 2006

OFFICE OF PETITIONS

In re Application of
Richard R. Heuser
Application No. 10/272,317
Filed: October 15, 2002
Attorney Docket No. HEU 303C

ON PETITION

This is a decision on the petition, filed December 7, 2005 under 37 CFR 1.137(b), 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(b) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the final Office Action mailed August 27, 2004. An amendment, filed March 4, 2005 was considered and the applicant was advised in an advisory action mailed March 16, 2005 that the amendment did not place the application in condition for allowance. No timely response having been filed thereafter, this application became abandoned. Accordingly, a Notice of Abandonment was mailed December 2, 2005.

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

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

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

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

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

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

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of August 27, 2004, within the time period for response. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application. Since the amendment submitted with the petition has been referred to the examiner, who has indicated that the amendment still does not prima facie place the application in condition for allowance, the response required for a renewed petition must be a Notice of Appeal and requisite fee, or the filing of a continuing application under the terms set forth in 1031 O.G. 11.

Petitioner must submit a proper reply to the final Office action mailed on August 27, 2004, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

A courtesy copy of a new Advisory Action is included.

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

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

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

Telephone inquiries 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: Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BURNS DOANE SWECKER & MATHIS
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

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AUG 1 6 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Wray Russ :
Application No. 10/272,325 :
Filed: October 15, 2002 :
Attorney Docket No. 033131-009 :

This is a decision on the petition, filed August 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 May 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 the undersigned at (703) 305-8859.

The examiner of Technology Center AU 1734 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed: 11-17-06

In re application of Russ	:	
U.S. Patent No. 6,887,313	:	**DECISION ON**
Issued: May 3, 2005	:	**PETITION**
Application Number: 10/272,325	:	
Filed: October 15, 2002	:	
For: IN-LINE MARKING SYSTEM	:	

This is a decision on the petition filed on May 18, 2006 to correct inventorship in a patent under 37 CFR 1.324.

Decision

Applicants are deemed to have fulfilled the requirements under 37 CFR 1.324 in that the petition is accompanied by: (1) Statements from the currently named inventors, including the inventor whose name is being added, agreeing to the change of inventorship and that the error in inventorship occurred without deceptive intent; (2) A statement from the assignee of the parties submitting statements under (1) above agreeing to the change of inventorship in the patent in compliance with 37 CFR 3.73(b); and (3) the fee set forth in 37 CFR 1.20(b).

The petition is **GRANTED**.

The file is being forwarded to Certificate of Corrections Branch for Issuance of a certificate adding Marius Buibas as a co-inventor with Wray Russ.

Christopher A. Fiorilla
SPE AU 1734
Technology Center 1700
Chemical and Materials Engineering

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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MAR 12 2004

Edward P. Dutkiewicz
P.O. Box 511
Largo, FL 33779-0511

Paper No. 10

In re Application of Steven D. Ritchie Serial No. : 10/272,335 Filed : October 16, 2002 For : Sex Aid	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT :

This is a decision on petitioner's request filed February 18, 2004, to review the holding of abandonment mailed January 30, 2004 for failure to respond to the Office action mailed July 2, 2003. There is no fee required for this petition.

In support of the request, petitioner has provided a statement that on October 2, 2003, an amendment was filed in accordance with the procedures set forth in 37 CFR 1.8. The communication included a Certificate of First Class mailing dated October 2, 2003. A copy of the October 2, 2003 communication has been provided.

In view of the above, 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, processing and consideration of the communication filed October 2, 2003.

Summary: Holding of Abandonment Withdrawn.

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

ak/3/05/04

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COMMISSIONER FOR PATENTS
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Paper No. 8

Ryan W. Massey
6862 Hubbard Circle
Clarkston, MI 48348

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MAR 19 2004

OFFICE OF PETITIONS

In re Application of
Ryan W. Massey
Application No. 10/272,338
Filed: October 16, 2002
Attorney Docket No. N/A

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 10, 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 18, 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 18, 2003.

In response to the Notice to File Missing Parts, petitioner submitted with the instant petition $665 for the petition to revive fee, an oath/declaration, and a $65 surcharge for the late filing of the oath/declaration.

Since the requirements for a grantable petition have been met, 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 Andrea Smith at (703) 308-6711.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

LERNER AND GREENBERG, P.A.
Post Office Box 2480
Hollywood FL 33022-2480

In re Application of:	:	DECISION GRANTING
Manfred Greschitz, Klaus Gruber,	:	STATUS
Franz Helminger and Franz Wolf	:	UNDER 37 CFR 1.47(a)
Application No.: 10/272,342	:	
Filed: October 15, 2002	:	
Title of Invention: CAPACITIVE	:	
BIOMETRIC SENSOR	:	

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APR 0 7 2003

OFFICE OF PETITIONS

This is in response to the Petition Under 37 CFR 1.47(a), filed February 13, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Franz Helminger, refuses to sign the declaration.

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

A timely and proper response necessitated a one (1) month extenstion-of-time, accordingly, the fee for a one (1) month extension-of-time has been charged to deposit account 12-1099, as authorized in the instant petition[1].

The application file is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

---

[1]The petition included an unexecuted Certificate of Mailing dated January 27, 2003, and was received in the Office on February 3, 2003. Accordingly, the petition, filed February 3, 2003, was not timely filed. Moreover, the petition as filed was not grantable until the Declaration in Support of Petition was filed, on February 11, 2003.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Franz Helminger
Johanna-Kolleger-Strasse 13
A-8040 Graz
Austria

COPY MAILED

APR 0 7 2003

OFFICE OF PETITIONS

In re Application of:
Manfred Greschitz, Klaus Gruber,
Franz Helminger and Franz Wolf
Application No.: 10/272,342
Filed: October 15, 2002
Title of Invention: CAPACITIVE
BIOMETRIC SENSOR

LETTER

Dear Mr. Helminger:

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) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: LERNER AND GREENBERG, P.A.
Post Office Box 2480
Hollywood FL 33022-2480

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 9/12/05

TO SPE OF : ART UNIT 3679

SUBJECT : Request for Certificate of Correction on Patent No.: 6866303 B2

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

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

Virginia Tolbert

Thank You For Your Assistance

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

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

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

Comments: The changes are correct as identified. These changes correct the examiner's error of changing the actual claim dependency via Exr's Amdt instead of merely applying the final claim numbering to the respective dependency of these claims. In fact, all claim dependency changes made by the examiner in the Exr's Amdt were incorrect though some of these claims were printed with the dependency as it should correctly appear. Thus, the changes are approved and now all claims of the patent possess their proper claim dependency.

/Daniel P. Stodola/ — SPE

3679 — Art Unit

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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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

Mail Date: 04/26/2010

Applicant	: Li-Shiang Liang	: DECISION ON REQUEST FOR
Patent Number	: 7572359	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/272,356	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/15/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1432** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 4

Antoinette F. Konski
BINGHAM McCUTCHEN LLP
Three Embarcadero Center, Suite 1800
San Francisco, CA 94111-4067

MAILED

AUG 1 2003

OFFICE OF DIRECTOR
GROUP

In re Application of:	:	
Xiangdong Zhu	:	
Application No. 10/272,357	:	DECISION ON REQUEST TO
Filed: October 15, 2002	:	WITHDRAW FROM RECORD
Docket No. 23540-07453	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed December 26, 2002.

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 Antoinette F. Konski on behalf of himself/herself and all the attorneys of record. There is no outstanding Office action which requires a response.

The request is **APPROVED**.

There are no attorneys of record at this time.

All future communications from the Office will be directed to, Michael Shuster, 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: Michael Shuster
Fenwick & West LLP
275 Battery Street
San Francisco, CA 94111

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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FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI, OH 45202

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MAR 3 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Walter, et al.	:	
Application No. 10/272,373	:	ON PETITION
Filed: October 16, 2002	:	
Attorney Docket No. 1160215/0431070	:	

This is a decision on the petition under 37 CFR 1.181, filed February 13, 2005, to withdraw the holding of abandonment.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed June 20, 2005. Accordingly, this application became abandoned on September 21, 2005. A Notice of Abandonment was mailed February 9, 2006.

Petitioner asserts the Office action was not received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

The required statements and docket records have been submitted and considered.

The petition is granted.

The file is being forwarded to Technology Center 2100 for re-mailing of the June 20, 2005 Office action with a new period for response.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JENNER & BLOCK
ONE IBM PLAZA
CHICAGO, IL 60611

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NOV 1 7 2005

OFFICE OF PETITIONS

In re Application of :
David W. Caldwell :
Application No. 10/272,377 :
Filed: October 15, 2002 :
Attorney Docket No. 37041-10752 :

ON PETITION

This is a decision on the petition under 37 CFR 1.313, filed November 16 ,2005, which is being treated under 37 CFR 1.313(c)(1) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is GRANTED.

The above-identified application is withdrawn from issue due to unpatentability of one or more claims. See 37 CFR 1.313(c)(1).

The application is hereby withdrawn from issue.

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

This matter is being referred to Technology Center AU 2836.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions

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JENNER & BLOCK LLP
ONE IBM PLAZA
CHICAGO, IL 60611

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AUG 08 2006

OFFICE OF PETITIONS

In re Application of :
David W. Caldwell :
Application No. 10/272,377 :
Filed: October 15, 2002 :
Attorney Docket No. 37041-10752 :

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(1)

This is a decision on the petition, filed August 2, 2006, which is being treated as a petition under 37 CFR 1.313(c)(1), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

Petitioner requests withdrawal of this application from issue to correct the antecedent basis in claims 1, 7, 37, and 52, asserting that the recitation of 'decision circuit' in these claims lacks antecedent basis, thus rendering these claims unpatentable."

The petition complies with the requirements of 37 CFR 1.313(c)(1). Accordingly, the above-identified application is withdrawn from issue due to unpatentability of one or more claims.

Petitioner is advised that the issue fee paid on July 11, 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]

---

[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 the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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

The application is being referred to Technology Center AU 2836 for appropriate action in the normal course of business on the amendment filed August 2, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: __12/19/08__

DATE : 12/09/08

TO SPE OF : ART UNIT 2836

SUBJECT : Request for Certificate of Correction for Appl. No.: 10272377 Patent No.: 7218498 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: approved. DN 12/19/08

/Richard Elms/ SPE AU 2824 12/19/08

SPE **Art Unit**

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K2H 7T8
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NOV 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Andre Gagnon	:	
Application No. 10/272,381	:	ON PETITION
Filed: October 17, 2002	:	
Attorney Docket No. AP899US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 4, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply to a non-final Office action.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 2600.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

PTO/SB/83 (03-02)
Approved for use through 10/31/2002. OMB 0651-0035

Pet. Dec.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

NOV 21 2003 PATENT & TRADEMARK OFFICE

Application Number	10/272,398
Filing Date	10/14/02
First Named Inventor	Malcolm MacQuoid
Group Art Unit	1723
Examiner Name	
Attorney Docket Number	1810.PACI.NP

To: Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

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

The reasons for this request are:

Applicant's Request

Approved
Jacqueline M. Stone, Director
Technology Center 1700

JUN 29 2004

1. ☐ The correspondence address is NOT affected by this withdrawal.

2. ☒ Change the correspondence address and direct all future correspondence to :

CORRESPONDENCE ADDRESS

☐ Customer Number [ ] → [ ]

OR

Place Customer Number Bar Code Label Here

☒ Firm or Individual Name	Randall B. Bateman				
Address	P.O. BOX 1319				
Address					
City	SALT LAKE CITY	State	UT	Zip Code	84110-1319
Country	USA				
Telephone		Fax			

☒ This request is made on behalf of:

☒ all the attorneys/agents of record, except for Randall B. Bateman

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

☐ The attorneys/agents associated with Customer Number _____

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

Name	Frank W. Compagni
Signature	
Date	11-18-03

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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KRAMER LEVIN NAFTALIS & FRANKEL LLP
INTELLECTUAL PROPERTY DEPARTMENT
919 THIRD AVENUE
NEW YORK NY 10022

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APR 3 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Sears et al.	:	
Application No. 10/272,418	:	DECISION GRANTING
Filed: 16 October, 2002	:	PETITION
Atty Docket No. 177079-00145	:	

This is a decision on the petition filed on 10 October, 2003, which is treated as a petition filed under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of a prior-filed nonprovisional application.

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 29 November, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) of the prior-filed application, unless previously submitted;[1]

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) and the

[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 and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate. (*see* § 1.14).

> date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The present pending application was filed on 16 October, 2002, and was copending with the above-noted, prior-filed nonprovisional application, at the time of filing, for which priority is claimed (which issued as U.S. Patent 6,620,293 on 16 September, 2003). 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, which was filed concurrently with the present petition under 37 CFR 1.78(a)(3).

The present nonprovisional application was filed after 29 November, 2000, and the claim for priority herein is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2). Also, the reference to the prior-filed nonprovisional was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the present petition satisfies the conditions of 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed claim for benefit under 35 U.S.C. § 120, the petition to accept an unintentionally delayed claim to benefit to prior-filed Application No. 09/832,634 is granted as of the date of filing the petition.

The benefit claim has been entered in Office records. A corrected Filing Receipt accompanies this decision.

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

Petitioners are advised that in future filings, any amendment must be filed in a separate paper to avoid confusion.[2]

The application is being forwarded to Technology Center 1700 for processing the amendment embodied in the petition filed on 10 October, 2003, and for consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(3) for the benefit of the above-noted, prior-filed nonprovisional application.

Telephone inquiries related to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

Charles A. Pearson
Director, Office of Petitions

Encl: Corrected Filing Receipt

[2] See 37 CFR 1.4(c).

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SEP 0 9 2003

OFFICE OF PETITIONS

Helen C. Lockhart
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston MA 02210

In re Application of
Rogers, et al.
Application No. 10/272,432
Filed: October 15, 2002
Attorney Docket No. C01102.70005.US
For: METHODS FOR REGULATING CO-STIMULATORY MOLECULE EXPRESSION WITH REACTIVE OXYGEN

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

This is in response to the petition under 37 CFR 1.47(a), filed June 20, 2003 (certificate of mailing date June 18, 2003).[1]

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

Petitioners have shown that the non-signing inventor, Richard Trauger, has constructively 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 Attorney Helen C. Lockhart establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. 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 declaration. It is assumed that the address listed in the declaration is the inventor's last known address. If this is not the case, petitioners must notify the Office promptly. Notice of the filing of this application will 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

---

[1] It appears that petitioners have submitted documents with the intention of having an entity with a proprietary interest intervene and make the application on behalf of the non-signing inventor. Petitioner is reminded that when one joint inventor signs, the provisions of 37 CFR 1.47(a) apply. Where 37 CFR 1.47(a) is available, application cannot be made under 37 CFR 1.47(b). MPEP 409.03(b)

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RICHARD TRAUGER
311 SANFORD ROAD
LEUCADIA CA 92092

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SEP 0 9 2003

OFFICE OF PETITIONS

LETTER

In re Application of
Rogers, et al.
Application No. 10/272,432
Filed: October 15, 2002
Attorney Docket No. C01102.70005.US
For: METHODS FOR REGULATING
CO-STIMULATORY MOLECULE EXPRESSION
WITH REACTIVE OXYGEN

Dear Mr. Trauger:

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: Helen C. Lockhart
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston MA 02210

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Paper No. 13

WOLF GREENFIELD & SACKS, PC
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BOSTON MA 02210-2211

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JUL 3 1 2003

OFFICE OF PETITIONS

In re Application of
Krag, Pero & Oligino
Application No. 10/272,437
Filed: October 15, 2002
Attorney Docket No. V00139.70056.US
For: BINDING PEPTIDES SPECIFIC FOR THE EXTRACELLULAR DOMAIN OF ERBB2 AND USES THEREFOR

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed June 4, 2003 (certificate of mailing date June 2, 2003).

The petition is granted.

Petitioners have shown that the non-signing inventor, Lyn Oligino, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Attorney Maria A. Trevisan and the exhibits to the statement establish that Ms. Oligino received the application papers, including the specification, claims and drawings, but Ms. Oligino, through her attorney, Mr. Kevin J. Carroll, refused to sign the declaration on May 28, 2003. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64. It is assumed that Ms. Oligino's last known address is that given in the declaration. If this is an incorrect assumption, petitioner must notify the Office as soon as possible with the correct last known address for Ms. Oligino.

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

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LYN OLIGINO
1 PAVILION AVENUE
SOUTH BURLINGTON VT 05403

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JUL 3 1 2003

OFFICE OF PETITIONS

In re Application of Krag, Pero & Oligino Application No. 10/272,437 Filed: October 15, 2002 Attorney Docket No. V00139.70056.US For: BINDING PEPTIDES SPECIFIC FOR THE EXTRACELLULAR DOMAIN OF ERBB2 AND USES THEREFOR	:	LETTER

Dear Ms. Oligino:

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: WOLF GREENFIELD & SACKS, PC
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UNITED STATES PATENT AND TRADEMARK OFFICE

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26 WEST 61ST STREET
NEW YORK, NY 10023

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OFFICE OF PETITIONS

In re Application of	:	
Degenkamp, Gijsbertus	:	
Application No. 10/272,438	:	ON PETITION
Filed: October 16, 2002	:	
Attorney Docket No. U 014264-0	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 19, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed February 9, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 10, 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 3600 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after September 28, 2004 should be directed to the undersigned at (571) 272-3282.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper 8

Edward C. Kwok
MacPherson Kwok Chen & Heid LLP
Suite 226
1762 Technology Drive
San Jose, CA 95110

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OCT 3 0 2003

OFFICE OF PETITIONS

In re Application of
Mann et al.
Application No. 10/272,441
Filed: October 16, 2002
Attorney Docket No. M-15172 US
Title of Invention: SYSTEM, METHOD, APPARATUS AND MEANS FOR CONSTRUCTING BUILDING TOMOGRAPHY AND TIMING INFORMATION

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed September 16, 2003, to revive the above-identified application.

This above-identified application became abandoned for failure to file a timely complete response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on December 13, 2002. The Notice to File Missing Parts set a two (2) month period for reply. A five month extension of time was obtained pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on July 15, 2003. This decision precedes the mailing of a Notice of Abandonment.

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

The Office acknowledges receipt of the Abstract submitted on September 16, 2003.

This application is being retained in the Office of Petitions awaiting a grantable rule 47 petition.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No. 9

Edward C. Kwok
MacPherson Kwok Chen & Heid LLP
Suite 226
1762 Technology Drive
San Jose, CA 95110

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OCT 3 0 2003

OFFICE OF PETITIONS

In re Application of
Mann et al.
Application No.10/272,441
Filed: October 16, 2002
Attorney Docket No. M-15172 US
Title of Invention: SYSTEM, METHOD, APPARATUS AND MEANS FOR CONSTRUCTING BUILDING TOMOGRAPHY AND TIMING INFORMATION

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition filed July 14, 2003, under 37 C.F.R. §1.47(a).

The petition under 37 C.F.R. §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 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on October 16, 2002, without an executed oath or declaration. Accordingly, on December 13, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of February 13, 2003.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, Declaration of Richard Malone the Director of Finance for Enuvis, Inc. the purported assignee of the above-identified application and a partially executed declaration. To make timely, a request for a five (5) month extension of time was submitted with the petition.

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

The instant petition does not satisfy requirements (1) and (2).

As to item (1), Rule 47 applicant has failed to show that the non-signing inventor refused to sign the declaration after having been presented with the application papers. Rule 47 applicant indicates, inventor Sahai sent a standard Consulting Agreement apparently drafted by inventor Sahai. Applicant further states the submission of the inventor drafted consulting agreement has been construed as being inconsistent with inventor Sahai's obligations to Enuvis, inc. However, petitioner has failed to provide sufficient proof that establishes the submission of the consulting agreement constitutes refusal to execute the application documents.

Paragraph seven of the declaration of Richard Malone indicates that patent agent Stefano Casadei communicated numerous times with inventor Sahai to try to obtain his cooperation. However, rule 47 applicant did not indicate a copy of the application papers (specification, including claims, drawings, and oath or declaration) was presented to the non-signing inventor. Before a refusal can be alleged, applicant must 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). What were some of the efforts undertaken by agent Casadei, when did these efforts take place and what was the response if any by inventor Sahai.

As to item (2), the declaration submitted is not in compliance with 37 CFR 1.63 . Rule 47 applicant failed to provide the citizenship and mailing addresses of all of the inventors pursuant to 37 CFR 1.63 (a)(3)and (c)(1). The declaration does not provide the citizenship and mailing address of inventor Sahai. Petitioner must present a newly executed declaration to provide the citizenship and the last known mailing address of inventor Sahai .

The power of attorney does not contain any language regarding revocation. Currently a customer number is in place which identifies Stefano Casadei as the agent of record. In order to enter petitioner's customer (32605) a document which specifically request such revocation should be submitted.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place

Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No. 13

MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE, CA 95110

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MAR 17 2004

OFFICE OF PETITIONS

In re Application of
Wallace Mann and Anant Sahai
Application No.10/272,441
Filed: October 16, 2002
Attorney Docket No. M-15172 US
Title of Invention: SYSTEM, METHOD, APPARATUS AND MEANS FOR CONSTRUCTING BUILDING TOMOGRAPHY AND TIMING INFORMATION

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed January 26, 2004.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application was sent to non-signing inventor's last known address. Sufficient evidence has been presented to establish that non-signing inventor refuses to execute the application papers.

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

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

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Anant Sahai
3001 Derby Street #A
Berkeley, CA 94705

In re Application of
Wallace Mann and Anant Sahai
Application No.10/272,441
Filed: October 16, 2002
Attorney Docket No. M-15172 US
Title of Invention: SYSTEM, METHOD, APPARATUS AND MEANS FOR CONSTRUCTING BUILDING TOMOGRAPHY AND TIMING INFORMATION

LETTER

COPY MAILED
MAR 17 2004
OFFICE OF PETITIONS

Dear Mr. Sahai:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

Edward C. Kwok
MACPHERSON KWOK CHEN & HEID LLP
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MILA KASAN, PATENT DEPT.
APPLIED BIOSYSTEMS
850 LINCOLN CENTRE DRIVE
FOSTER CITY, CA 94404

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JUL 03 2008

OFFICE OF PETITIONS

In re Application of :
Kathleen M. Perry et al :
Application No. 10/272,450 :
Filed: October 15, 2002 :
Attorney Docket No. 4654 US :

ON PETITION

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed November 20, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 21, 2007.

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

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

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHICAGO IL 60610

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OFFICE OF PETITIONS

In re Application	: DECISION ON APPLICATION
Yasuhiro Miyasaka	: FOR PATENT TERM ADJUSTMENT
Application No. 10/272,457	: AND
Filed: October 16, 2002	: NOTICE OF INTENT TO ISSUE
Patent No. 6,886,955	: CERTIFICATE OF CORRECTION
Issued: May 3, 2005	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed May 12, 2005. Patentee requests that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to two hundred ninety-three (293) days.

The application for patent term adjustment 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 revised Patent Term Adjustment of **ninety-six (96) days**.

On May 3, 2005, the above-identified application issued into patent No. 6,886,955. The patent stated that the patent term adjustment (PTA) is zero (0) days. On May 12, 2005, patentee timely submitted an application for patent term adjustment, asserting that the correct number of days of PTA is two hundred ninety-three (293) days.

Patentee assert entitlement to a patent term adjustment of one hundred twenty-one (121) days under 37 C.F.R. §1.703(a)(6), on the basis that the patent issued more than four months after payment of the issue fee.

The Office determined a patent term adjustment of zero (0) days based on an adjustment for applicant's delays of twenty-two (22) and three (3) days, both pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. §1.704(b). The PTO delays of 22 and 3 have been reviewed and found to be correct.

A review of the application file reveals that the issue fee was paid on September 2, 2004. The instant patent did not issue until May 3, 2005. Accordingly, PTO delay of one hundred twenty-one (121) days should be assessed under 37 C.F.R. §1.703(a)(6), 121 days being the number of days "in the period beginning on the day after the date that is four months after the date the issue fee was paid [January 3, 2005]...and ending on the date a patent was issued [May 3, 2005]."

However, further review of the reflects that the patent did issue within three years of the filing date (October 6, 2002), and therefore no entitlement to additional PTA pursuant to 37 C.F.R. § 1.703(b) is warranted.

In view thereof, the correct determination of patent term adjustment at the time of issuance of the patent is **ninety-six (96) days** (121 days of PTO delay, reduced by 25 (22+3) days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. §1.18(e).

The application file is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction, indicating a Patent Term Adjustment of **ninety-six (96) days**.

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

Enclosure: Copy of Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 04/21/2010

Applicant	: James C. Cross III	: DECISION ON REQUEST FOR
Patent Number	: 7569293	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/272,458	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/15/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1070** 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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PERKINS COIE LLP
PATENT SEA
P. O. BOX 1247
SEATTLE, WA 98111-147

COPY MAILED

MAR 19 2007

OFFICE OF PETITIONS

In re Application of	:
Subha Srinivasan	:
Application No. 10/272,461	: DECISION ON PETITIONS
Filed: October 16, 2002	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 370878002US1	:

This is a decision on the petition treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed October 18, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to the prior-filed applications set forth in the amendment filed on December 16, 2005.

The petition is **GRANTED.**

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application(s) as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application(s) claiming the benefit of the prior-filed provisional application(s) must have been filed within twelve months of the filing date of the prior-filed provisional application(s).

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

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

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

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

This application is being referred to Technology Center Art Unit 1634 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. § §120 and 119(e) to the prior-filed nonprovisional and provisional applications.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/272,461	10/16/2002	1634	537	370878002US1	22	5

CONFIRMATION NO. 9813

CORRECTED FILING RECEIPT

OC000000022963784

25096
PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

Date Mailed: 03/19/2007

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

Applicant(s)

Subha Srinivasan, Greenbrae, CA;
Jonathan Bingham, San Francisco, CA;

Power of Attorney: The patent practitioners associated with Customer Number **25096**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/146,720 05/14/2002
which claims benefit of 60/307,911 07/25/2001
and claims benefit of 60/343,298 12/21/2001
and claims benefit of 60/329,914 10/17/2001

Foreign Applications

If Required, Foreign Filing License Granted: 11/06/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/272,461

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Methods and systems for polynucleotide detection

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted

under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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KING & SPALDING LLP
P.O. BOX 889
BELMONT CA 94002-0889

MAILED

JAN 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Subha SRINIVASAN, et al	:	
Application No. 10/272,461	:	DECISION ON PETITION
Filed: October 16, 2002	:	TO WITHDRAW
Attorney Docket No. 37087-8002.US01	:	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 8, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Judy M. Mohr on behalf of the attorneys of record associated with Customer No. 79975.

The attorneys of record associated with Customer No. 79975 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 until otherwise properly notified.

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

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JIVAN GIOLOGICS
C/O SUBHA SRINIVASAN
700 LARKSPUR LANDING CIR.
LARKSPUR CA 94939

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/272,461	10/16/2002	Subha Srinivasan	37087-8002.US01

CONFIRMATION NO. 9813

POWER OF ATTORNEY NOTICE

79975
King & Spalding LLP
P.O. Box 889
Belmont, CA 94002-0889

OC000000039477833

Date Mailed: 01/05/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/08/2009.

- 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.

/dcgoodwyn/

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

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999 PEACHTREE STREET, SUITE 1000
ATLANTA, GA 30309-3915

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MAY 22 2006

OFFICE OF PETITIONS

In re Application of	:
Frank B. Dean et al	: DECISION ON PETITION
Application No. 10/272,465	: UNDER 37 CFR 1.137(b)
Filed: October 15, 2002	:
Attorney Docket No. 13172.0012U3	:

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

The petition is **granted**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 13, 2006 as required by the Notice of Allowance and Fee(s) Due, mailed December 13, 2005.

The petition satisfies the requirements for a grantable petition in that the reply in the form of payment of the $1400 issue fee and $300 publication fee; the petition fee of $1,500; and the required statement of unintentional delay have been submitted. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Publishing Division.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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348 OLIVE STREET
SAN DIEGO, CA 92103

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MAR 1 2 2007

OFFICE OF PETITIONS

In re Application of

Gilleland, et al.

Application No. 10/272,481

Filed: October 16, 2002

Attorney Docket No. 11252.41

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 18, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 31, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the statutory period. Accordingly, the application became abandoned on May 1, 2006. A Notice of Abandonment was mailed on August 22, 2006.

The amendment filed October 18, 2006, is noted and made of record.

The request for extension of time within the third month, filed October 18, 2006, is noted but cannot be granted as the request was made outside the maximum statutory period for reply. The amount of $1020.00 will be refunded, in due course.

The application is being forwarded to Technology Center 1700, GAU 1754 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Paper No.

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

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JUN 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Lebowitz et al.	:	
Application No. 10/272,483	:	ON APPLICATION FOR
Filed: October 16, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. SYM-007CP	:	
(2008266-0004)	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 35 U.S.C. §154(b) AND 37 C.F.R. § 1.705(b) filed February 13, 2009. Applicants request that the patent term adjustment at the time of the mailing of the notice of allowance be corrected from three hundred eighty-seven (387) days to four hundred seventy-seven (477) days.

The application for patent term adjustment (PTA) is **DISMISSED**.

On November 14, 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 387 days. Applicants dispute the reduction of 130 days pursuant to 37 C.F.R. § 1.704(c)(8) for the filing of a Terminal Disclaimer on November 4, 2008. Applicants maintain that the Terminal Disclaimer was expressly requested by the examiner by telephone call on October 31, 2008, and thus, no reduction is warranted for its filing. However, applicants acknowledge that a supplemental response was filed on August 6, 2008. Accordingly, applicants submit that the period of 90 days for the period from August 6, 2008, the date of filing of the supplemental response, to November 4, 2008, the

date of filing of the Terminal Disclaimer expressly requested by the examiner, should not have been included as a reduction period in the calculation of the adjustment of patent term according to 37 C.F.R. § 1.704(c)(8).

Applicants' argument is not persuasive. 37 CFR 1.704(c) provides, in pertinent part, that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> > (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

In this instance, after the filing of a response on June 27, 2008, on August 6, 2008, applicants filed a supplemental response and then on November 4, 2008, applicants filed a Terminal Disclaimer. This is undisputed. The record does not support a conclusion that the Terminal Disclaimer was expressly requested by the examiner. Accordingly, the period of reduction of 130 days will not be removed.

In view thereof, the determination of PTA at the time of the mailing of the notice of allowance remains THREE HUNDRED EIGHTY-SEVEN (387) days.

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

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in

the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

Mail Date: 04/20/2010

Applicant	: Jonathan H. LeBowitz	: DECISION ON REQUEST FOR
Patent Number	: 7560424	: RECALCULATION of PATENT
Issue Date	: 07/14/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/272,483	: OF WYETH
Filed	: 10/16/2002	:
		:

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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ALEXANDRIA, VA 22313-1450
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Paper No. 8

Stefano Casadei
395 Oyster Point Blvd.
South San Francisco CA 94080

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FEB 17 2004
OFFICE OF PETITIONS

In re Application of
Sahai
Application No. 10/272,491
Filed: October 16, 2002
Attorney Docket No. E104
For: SYSTEMS AND METHODS FOR FACILITATING TRANSACTIONS IN ACCORDANCE WITH A REGION REQUIREMENT

ON PETITION

This decision addresses two petitions: (1) the petition under 37 CFR 1.47(b) and (2) the petition under 37 CFR 1.137(b) to revive the above-identified application. Both petitions were filed February 2, 2004 (certificate of mailing date January 29, 2004)

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

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

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.47(b) and 1.137(b)." Petitioner is advised that this is not a final agency decision.

On December 13, 2002, the Office mailed a Notice to File Missing Parts of Nonprovisional Application to petitioner, which set forth an extendable two (2) month period to submit application filing fees, an executed oath or declaration, and a $130.00 surcharge under 37 CFR 1.16(e) for their late filing.

Because petitioner failed to submit a timely reply to the Notice, this application became abandoned on February 14, 2003. A Notice of Abandonment was mailed on January 28, 2004.

Petitioner filed the instant petitions in response.

PETITION UNDER 37 CFR 1.47(b)

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;

(2) an acceptable oath or declaration;

(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

Applicant lacks item (2) set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. **The citizenship of the sole inventor must be included on the oath or declaration**. As listing the citizenship for each inventor is a statutory requirement under 35 USC 115, it cannot be waived. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47(b) applicant on behalf of the non-signing inventor is REQUIRED. See MPEP 409.03(a).

The petition under 37 CFR 1.47(b) is dismissed.

PETITION UNDER 37 CFR 1.137(b)

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

(1) the required reply, unless previously filed;

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

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

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

This petition lacks item (1) above. The required reply is an acceptable declaration -- whether executed by the sole inventor or executed by a legal representative of a party with proprietary interest in the invention. Since the petition under 37 CFR 1.47(b) is dismissed, petitioner has not submitted the required reply to revive the application.

The petition under 37 CFR 1.137(b) is dismissed.

A courtesy copy of this decision will be mailed to the address listed on the petitions. Because the declaration submitted with the instant petitions is not acceptable, the correspondence address listed on it will not be entered at this time.

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
ATTN: E. Shirene Willis

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
ATTN: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions -- E. Shirene Willis

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

cc: EDWARD C. KWOK
LAW OFFICES OF MACPERSON, KWOK
CHEN & HEID, LLP
1762 TECHNOLOGY DRIVE
SUITE 226
SAN JOSE, CA 95110

UNITED STATES 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. 14

MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE CA 95110

COPY MAILED
APR 3 0 2004
OFFICE OF PETITIONS

In re Application of
Sahai
Application No. 10/272,491
Filed: October 16, 2002
Attorney Docket No. E104
For: SYSTEMS AND METHODS FOR FACILITATING TRANSACTIONS IN ACCORDANCE WITH A REGION REQUIREMENT

ON PETITION

This decision addresses the reconsideration petition under 37 CFR 1.47(b) and the reconsideration petition under 37 CFR 1.137(b) to revive the above-identified application. Both petitions were filed on March 5, 2004 (certificate of mailing date March 2, 2004)

The petition under 37 CFR 1.47(b) is **granted**.

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

On December 13, 2002, the Office mailed a Notice to File Missing Parts of Nonprovisional Application to petitioner, which set forth an extendable two (2) month period to submit application filing fees, an executed oath or declaration, and a $130.00 surcharge under 37 CFR 1.16(e) for their late filing.

Because petitioner failed to submit a timely reply to the Notice, this application became abandoned on February 14, 2003. A Notice of Abandonment was mailed on January 28, 2004.

Petition under 37 CFR 1.47(b)

Petitioner has shown that the non-signing inventor, Anant Sahai, has constructively 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 former attorney of record Stefano Casadei establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration unless he received additional compensation. In addition, petitioner has shown that Enuvis, Inc. has a proprietary interest in the above-identified application with the copy of the employment agreement showing that the inventor had an obligation to assign any patent rights to Enuvis, Inc. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 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.

Petition under 37 CFR 1.137(b)

Petitioner has submitted (1) an acceptable reply in the form of application filing fees, an acceptable declaration (when taken with accordation of Rule 47 status), and a surcharge for their late filing, (2) the petition fee, and (3) an acceptable statement of the unintentional nature of the delay in responding to the December 13, 2002 Notice to File Missing Parts of Nonprovisional Application.

Therefore, the petition under 37 CFR 1.137(b) is **granted**.

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

KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET, SUITE #1600
ONE WORLD TRADE CENTER
PORTLAND, OR 97204-2988

COPY MAILED

FEB 2 4 2005

OFFICE OF PETITIONS

In re Application of
James L. Kinsella, et al.
Application No. 10/272,496
Filed: October 15, 2002
Attorney Docket No. 4239-63916

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed March 29, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 10/121,500, as set forth in the Amendment filed concurrently with the instant petition.

The petition under 37 CFR 1.78(a)(3) is **DISMISSED AS MOOT**.

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.

Along with the instant petition under 37 CFR 1.78(a)(3), petitioner has submitted an amendment under 37 C.F.R. §1.312 to correct the priority claim under 35 U.S.C. §120. Accordingly, petitioner asserts that the priority claim incorrectly identified Application No.10/121,500 as a continuation of Application No. 09/641,549 when in fact, Application No. 10/121,500 is a continuation of Application No. 08/821,906.

The petition under 37 CFR 1.78(a)(3) would not be required when applicant is changing the relationship in a benefit claim from "continuation" (or "divisional") to "continuation-in-part" or from "continuation-in-part" to "continuation"(or "divisional"), or from "continuation" to "divisional," because the Office was able to schedule the application for publication with the relationship given.

MPEP SECTION 201.11(G) states:

> The examiner should consider whether any new prior art may now be available if a benefit claim is deleted. If an applicant is submitting an amendment to the specification or an ADS to delete a benefit claim after final rejection or action, the amendment or ADS will be treated under **37 CFR 1.116** (see **MPEP § 714.12** and § **714.13**). If the amendment or ADS to delete a benefit claim is submitted after the application has been allowed, the amendment or ADS will be treated under **37 CFR 1.312** (see **MPEP § 714.16**). A deletion of a benefit claim will not delay the publication of the application

> unless the amendment or ADS is recognized by the Office within nine weeks prior to the projected publication date that was originally calculated based on the benefit claim.
>
> A cancellation of a benefit claim to a prior application may be considered as a showing that the applicant is intentionally waiving the benefit claim to the prior application in the instant application. If the applicant later files a petition to accept an unintentionally delayed claim to add the benefit claim to the prior application in the same application from which the benefit claim was canceled, the Office may refuse to accept such benefit claim because the delay was not unintentional.

In view of the dismissal of the instant petition as moot issue, the $1330 fee submitted is unnecessary. Accordingly, as authorized, this fee will be refunded to Deposit Account No. 02-4550 in due course.

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

Any questions concerning this decision on petition may be directed to Retta Williams at (703) 306-5594.

This matter is being referred to Technology Center Art Unit 1625 for examination in due course.

Frances Hicks

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

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

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JAN 23 2007

OFFICE OF PETITIONS

NOTICE

In re Patent No. 7,014,858 :
Issue Date: March 21, 2006 :
Application No. 10/272,499 :
Filed: October 15, 2002 :
Attorney Docket No.: 512-53 CON/RCE :

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) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 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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DEC 19 2006
OFFICE OF PETITIONS

In re Application of :
Yue Chen :
Application No. 10/272,507 : ON PETITION
Filed: October 15, 2002 :
Title: Edge Modulator

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

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of January 25, 2006. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on April 26, 2006. This decision precedes the mailing of a Notice of Abandonment.

This petition is hereby **Granted**.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the present petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the present petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

The office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

This application is being forwarded to Technology Center 2600 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: OGNYAN BEREMSKI,
McAndrews Held & Malloy, Ltd.
500 West Madison Street
34th Floor
Chicago, IL 60661

UNITED STATES PATENT AND TRADEMARK OFFICE

DEC -7 2005

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

MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

Paper No. 10

In re Application of
WEXLER, HOWARD
Appl No.: 10/272,515
Filed: October 15, 2002
For: SOFT POSABLE DOLL
Attorney Docket Number: 29869/37715A

DECISION GRANTING PETITION
37 CFR 1.181

This application is before the Director of Technology Center 3700 for reconsideration of the Notice of Abandonment mailed February 7, 2005 for failure to timely reply to the office action mailed November 4, 2003. The request is considered pursuant to 37 CFR 1.181. No fee is required for this petition.

The petition is granted.

In support of the request, petitioner has submitted a copy of the response and a copy of the postcard receipt stamped January 12, 2004.

In view of the above, the Notice of Abandonment mailed February 7, 2005 is hereby vacated and the holding of abandonment is withdrawn. The application will be 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 consideration of the amendment filed January 12, 2004.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/17/06

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/272553** Patent No.: **6987195**

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. 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** 1621

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)
6893341	2005-05-17	10272554	2002-10-16	97-015-C2

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	/Michael Downs 50252/	Date (YYYY-MM-DD)	2009-07-06
Name	Michael D. Downs	Registration Number	50252

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. 6893341
Issue Date: May 17,2005
Application No. 10272554
Filed: October 16,2002
Attorney Docket No. 97-015-C2

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

This is a decision on the electronic petition, filed July 7,2009 ,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 7,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 2 2 2006
OFFICE OF PETITIONS

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

In re Application of	:	
Abel Pereira et al	:	
Application No. 10/272,556	:	ON PETITION
Filed: October 16, 2002	:	
Attorney Docket No. CRODA 3.0-028	:	

This is a decision on the petition, filed May 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 19, 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 1616 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 17, 2008

TO SPE OF : ART UNIT **1616**

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/272556 Patent No.: 7217424 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: Enter the reference to the terminal disclaimer. Do not enter all of the remaining corrections. The columns and lines cited on the certificate of correction do not match the text in the patent.

JHANN RICHTER
SUPERVISORY PATENT EXAMINER
GROUP 1600

SPE

1616
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 10

Erwin J. Basinski
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105-2482

MAILED

JUL 01 2004

Technology Center 2100

In re Application of:
Thomas Peter BAECKER, et al.
Application No. 10/272,560
Filed: October 15, 2002
For: METHOD OF PRODUCING A SOFTWARE PRODUCT

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed June 14, 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: Frank R. Occhiuti
Fish & Richardson
225 Franklin Street
Boston, MA 02110-2804

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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DEC 02 2004

Michael E. Weaver, Esq.
Nelson Mullins Riley & Scarborough, LLP
P.O. Box 11070
Columbia, SC 29211

Paper No. 7

In re Application of Brian J. Alessi Serial No. : 10/272,561 Filed : October 16, 2002 For : Underwear Having an Offset Flap with Alignment Guide	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT :

This is a decision on petitioner's request filed August 2, 2004, to review the holding of abandonment mailed July 13, 2004 for failure to respond to the Office action mailed December 19, 2003. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of an amendment, the amendment bearing a certificate of facsimile transmission dated March 19, 2004. Petitioner has also included a copy of a facsimile transmission report confirming transmission of the papers in question on March 19, 2004.

In view of the above, the Notice of Abandonment mailed July 13, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry and consideration of the response filed March 19, 2004.

Summary: Holding of Abandonment Withdrawn.

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

ak/11/18/04

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

MAY 12 2003

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PAPER NO. 6

In re Application of Anthony Pipes Serial Number: 10/272,576 Filed: October 16, 2002 For: METHOD AND APPARATUS FOR PARALLEL DESALTING	:	PETITION UNDER M.P.E.P.708.02,V

This is in response to the petition filed, October 16, 2002 requesting that the above-identified application be granted Special Status under section 708.02 (V) of the MPEP and 37 CFR 1.102(c) (no fee required).

The request for Special Status considered under Section 708.02 (V) is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

JMStone

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

Walter A.Hackler, Ph.D.
Attorney of Record
2772 S.E. Bristol, Suite B
Newport Beach, CA 92660-0755

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

AT & T LEGAL DEPARTMENT – FKM
AT & T LEGAL DEPARTMENT
ATTN: PATENT DOCKETING ROOM 2A-207
BEDMINSTER, NJ 07921

In re Application of
Peter P. Fagone et al
Application No. 10/272,581
Filed: October 16, 2002
Attorney Docket No. 2002-0077
(40147/12301)

DECISION ON PETITION

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

The petition is **DISMISSED.**

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

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed December 11, 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 March 12, 2007.

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

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

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

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

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

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

As to Period (1):

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

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (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 March 12, 2007. 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 Samuel Dworetsky was counsel of record at the time of abandonment, Samuel Dworetsky should explain why this application became abandoned while it was under his control and what efforts he made to further reply of itself and with whom this matter was discussed outside of Mr. Dworetsky. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Samuel Dworetsky and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons responsible for handling this application, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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

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

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

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

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

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

Any renewed petition may be addressed as follows:

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

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

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Michael J. Marcin
150 Broadway, Suite 702
New York, NY 10038

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TYCO HEALTHCARE GROUP LP
60 MIDDLETOWN AVENUE
NORTH HAVEN, CT 06473

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OFFICE OF PETITIONS

In re Application of	:	
Waaler et al.	:	
Application No. 29/272,589	:	DECISION ON PETITION
Filed: February 12, 2007	:	
Attorney Docket No. H-US-00935 (203-5371)	:	

This is a decision on the petition, filed July 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. Alternatively, petitioner seeks revival under the unintentional provisions of 37 CFR 1.137(b).

The petition under 1.181 is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before May 27, 2008, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed February 25, 2008.

Petitioner asserts that the Notice dated February 25, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the non-received Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner'statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

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

In view of the above, the petition under 1.137(b) is **DISMISSED AS MOOT** and the $1,540 petition fee is being refunded 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 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 Alicia Kelley at (571) 272-6059.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: PINA M. CAMPAGNA
CARTER, DELUCA, FARRELL & SCHMIDT, LLP
445 BROAD HOLLOW ROAD – SUITE 225
MELVILLE, NEW YORK 11747

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MOTOROLA, INC.
LAW DEPARTMENT
1303 E. ALGONQUIN ROAD
SCHAUMBURG, IL 60196

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OFFICE OF PETITIONS

In re Application of

Wong, et al.

Application No. 10/272,659

Filed: October 16, 2002

Attorney Docket No. MCG00319

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 10, 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 Notification of Non-Compliant Appeal Brief, mailed September 16, 2005, which set a one month period for reply. No response was received within the allowable period, and the application became abandoned on October 17, 2005. A Notice of Abandonment was mailed on April 26, 2006.

The appeal brief filed May 10, 2006, is noted.

The application is being forwarded to Technology Center 2100, GAU 2112 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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P.O. Box 1450
Alexandria, VA 22313-1450
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LERNER AND GREENBERG, P.A.
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HOLLYWOOD FL 33022-2480

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OFFICE OF PETITIONS

In re Application of

HASEGAWA, Masayuki et al.
Application No. 10/272,677
Filed: October 17, 2002
Attorney Docket No. **RWSJ-8200**

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 December 15, 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 Ralph Locher on behalf of all attorneys of record who are associated with customer number 24131. 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 Masayuki Hasegawa at the address indicated below. There is an outstanding Office action mailed September 13, 2007 that requires a reply from the applicant.

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **MASAYUKI HASEGAWA**
M & A ADVANCE CORPORATION
AYASE 1-5-6, ADACHI-KU
TOKYO 120-0005
JAPAN

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 10

John Russell Uren
1590 Bellevue Avenue
West Vancouver, British Columbia
Canada, V7V 1A7

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OFFICE OF PETITIONS

In re Application of :
John H. de Jonge :
Application No. 10/272,712 : ON PETITION
Filed: October 16, 2002 :
Attorney Docket No. ART88803 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 17, 2003, to revive the above-identified application.

The petition is Dismissed as moot.

A review of the application file reveals that an Amendment accompanied by a three-month extension of time were submitted timely on December 17, 2003, via certificate of mailing on December 11, 2003. In view of the timely submission, the Notice of Abandonment is vacated.

The application file is being forwarded to Technology Center AU 3643 for further processing.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 5, 2006

TO SPE OF : ART UNIT 3677

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/272721 Patent No.: 7,059,816 B2

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

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

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

Elisha Evans
Certificates of Correction Branch

703-308-9390 ext. *110*

Thank You For Your Assistance

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

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

Comments: The Foreign Patents should not be listed since they have not been considered.

SPE

3677
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-3-09

TO SPE OF : ART UNIT 1723

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/272728 Patent No. 6770192

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

FOR IFW FILES: Please check COFC

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

Eric Yarb
Certificates of Correction Branch
703-308-9390 ext. 117

Thank You For Your Assistance

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

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

Comments: OK

DUANE SMITH
SUPERVISORY PATENT EXAMINER
SPE

1797
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Francis A. Cooch, Office of Patent Counsel
THE JOHNS HOPKINS UNIVERSITY
Applied Physics Laboratory
11100 Johns Hopkins Road
Laurel MD 20723-6099

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OFFICE OF PETITIONS

In re Application of
Murray
Application No. 10/272,733
Filed: October 16, 2002
Attorney Docket No. 1734-SPL
For: POLYMER BASED PERMEABLE MEMBRANE FOR REMOVAL OF IONS

DECISION GRANTING PETITION

This is a decision on the petition, filed December 30, 2002 (certificate of mailing date December 23, 2002), requesting, in effect, withdrawal of the Notice of Omitted Items In a Nonprovisional Application (Notice), mailed December 2, 2002. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on October 16, 2002. On December 2, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioner that Figure 7 described in the specification appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that Figure 7 be accorded a filing date of October 16, 2002 on the basis that 7 sheets of drawing figures, including Figure 7, were received in the Patent and Trademark Office (PTO) on October 16, 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 16, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 7 sheets of drawings. A review of the application file reveals that only 6 sheets of drawing figures are present.

The return postcard constitutes *prima facie* evidence that 7 sheets of drawing figures, including Figure 7, were filed on October 16, 2002. MPEP 503. Accordingly, the request is granted.

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

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of October 16, 2002, using the copy of Figure 7 submitted with the instant petition. Office records will be corrected to show that 7 sheets of drawings were present on filing.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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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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LAW OFFICES OF GARY SCHNITTGRUND
28001 Smyth Drive
Suite 105
Valencia CA 91355-4030

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OFFICE OF PETITIONS

In re Application of
Beilin et al.
Application No. 10/272,746
Filed: October 16, 2002
Attorney Docket Number: A02-14-US
Title of Invention: Ice Resurfacing Blade

ON PETITION

This is a decision on the petition filed June 6, 2005, under 37 CFR 1.137(a) to revive the above-identified application.

The petition to revive under 37 CFR § 1.137(a) is **DISMISSED**.

This above-identified application became abandoned for failure to timely file a proper reply to a final Office Action pursuant to 37 CFR §1.113. The final Office Action was mailed on November 24, 2004 and set a three (3) month shortened statutory period for reply. An amendment was submitted on January 31, 2005. In response to the amendment an Advisory Action was mailed on February 15, 2005 indicating the amendment submitted on January 31, 2005 did not place the application in condition for allowance. Accordingly, this application became abandoned on February 25, 2005. A Notice of Abandonment was mailed on June 22, 2005.

PETITION TO REVIVE UNDER 37 CFR § 1.137(a)

A grantable petition under 37 CFR § 1.137(a) must be accompanied by:

(1) the required reply,[1]
(2) the petition fee,
(3) a showing <u>to the satisfaction of the Director</u> that the <u>entire</u> 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 <u>unavoidable</u>, 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.

---

[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.

The instant petition lacks items (3).

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 37 CFR §1.137(a).

The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[2] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[3]

Petitioner asserts the application was unavoidably delayed because petitioner did not receive the Advisory Action which was mailed on February 15, 2005. Petitioner states he did not become aware the application was abandoned or that an advisory action had been mailed until receipt of the Notice of Abandonment. Petitioner also states a continuation-in-part was filed on June 23, 2005 because he believed the Amendment submitted on January 24, 2005 was still under consideration.

Petitioner's arguments have been considered but they are not persuasive. 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.

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[2] See MPEP 711(c)(III)(c)(2) for a discussion of the requirements for a showing of unavoidable delay.

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

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). See MPEP 711.03(c). The failure to receive the Advisory Action would not warrant granting a petition under the unavoidable standard.

Further, pursuant to 37 CFR 1.116 (b) the admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination from termination. MPEP 711.03 (c) is clear that an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, when the applicant simply permits the maximum extendable statutory period for reply to expire while awaiting a notice of allowance or other action.

Accordingly, petitioner has failed to provide sufficient arguments that warrant the finding of unavoidable delay within the meaning of 37 CFR 1.137(a). Further petitioner has failed to establish the facts presented require the abandonment of the application to be withdrawn.

Alternative Venue

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR § 1.137(b) must be accompanied by the required reply, the required petition fee, and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR § 1.137(b) was unintentional. The filing of a petition under 37 CFR § 1.137(b) cannot be intentionally delayed, and therefore, must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR § 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR § 1.137(b).

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Window, Mail Stop Petition

Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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LAW OFFICES OF GARY SCHNITTGRUND
28001 Smyth Drive
Suite 105
Valencia CA 91355-4030

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Beilin et al.	:
Application No. 10/272,746	:
Filed: October 16, 2002	:
Attorney Docket Number: A02-14-US	:
Title of Invention: Ice Resurfacing Blade	:

This is a decision on petition under 37 CFR 1.137(b), filed 10, 2004, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a proper reply to a final Office Action pursuant to 37 CFR §1.113. The final Office Action was mailed on November 24, 2004 and set a three (3) month shortened statutory period for reply. An amendment was submitted on January 31, 2005. In response to the amendment an Advisory Action was mailed on February 15, 2005 indicating the amendment submitted on January 31, 2005 did not place the application in condition for allowance. Accordingly, this application became abandoned on February 25, 2005. A Notice of Abandonment was mailed on June 22, 2005. A petition filed under 37 CFR 1.137(a) was dismissed on August 14, 2005.

This petition is hereby **Granted**.

The two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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OFFICE OF PETITIONS

In re Application of

Dalziel, et al.

Application No. 10/272,764

Filed: October 17, 2002

Attorney Docket No. CL1920 US NA

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed July 12, 2007.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on January 28, 2007, after it was believed that no response was received to the non-final Office action mailed October 27, 2006. The non-final Office action allowed a period for reply of three 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 June 11, 2007, indicating that a reply to the non-final Office action was not received.

The instant petition maintains that an amendment responsive to the non-final Office action was transmitted via facsimile on January 25, 2007. A copy of the amendment containing a certificate of transmission under 37 CFR 1.8 dated January 25, 2007, accompanied the petition.

Section 711.03(c) of the *Manual of Patent Examining Procedure* provides, in pertinent part, that:

> Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the

> actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

Ms. Valencia Harper signed the certificate of transmission under 37 CFR 1.8, but no statement of personal knowledge from Ms. Harper accompanied the petition. A copy of the facsimile transmission sheet noting that ten pages were transmitted to the USPTO on January 25, 2007, accompanied the petition. The evidence is, therefore, convincing that the amendment was timely transmitted and lost by the Office.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the statutory period for reply. The holding of abandonment is withdrawn, accordingly. No petition fee is due.

The application file is being forwarded Technology Center 1700, GAU 1722 for further processing, including treatment of the request for express abandonment of the application, filed July 12, 2007.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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GREGORY T. ZALECKI
12900 HALL ROAD
SUITE 400
STERLING HEIGHTS, MI 48313

In re Application of ANDRYS, ROMAN
Appl. No.: 10/272,791
Filed: October 17, 2002
For: Miniature Sports Logo Display

DECISION ON PETITON FOR SUPERVISORY REVIEW
37 CFR 1.181

This is a decision on the petition filed May 09, 2005 for supervisory review of an examiner's action under 37 CFR 1.181. Petitioner requests the relief of withdrawal of the Notice of Abandonment mailed March 02, 2005 and return of the petition fee.

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

In the instant application, a Notice of Appeal was filed on October 18, 2004. An Appeal Brief was due in response to this Notice of Appeal on December 18, 2004. Petitioner was able to file up to a five-month extension of time subsequent to this Notice of Appeal, making the last possible response date May 18, 2005. On March 02, 2005 a Notice of Abandonment was mailed to petitioner even though the last possible date of response had not yet passed. On May 23, 2005, petitioner timely filed a five-month extension of time with a certificate of mailing dated May 18, 2005.

Since petitioner timely filed the five-month extension of time, the application was pending until May 18, 2005. Therefore the Notice of Abandonment sent March 02, 2005 was sent in error and applicant is entitled to the relief requested with respect to the withdrawal of the Notice of Abandonment. That Notice of Abandonment mailed March 02, 2005 is hereby **VACATED** by this decision. However, since an Appeal Brief or other suitable response was not filed along with the five-month extension of time on May 18, 2005, this application became abandoned on May 19, 2005. Thus, this decision also serves as a Dismissal of the Appeal and as a Notice of Abandonment for this application, with the date of abandonment being May 19, 2005.

With respect to the second relief requested for return of the petition fee, there is no fee associated with this petition so this request is considered moot.

Telephone inquiries regarding this decision should be directed to S. Joseph Morano, Supervisory Patent Examiner for Art Unit 3617, at (571) 272-6684. Telephone inquiries regarding the status of the claims and other examination related issues should be directed to the examiner of record, Lars A. Olson, at (571) 272-6685.

Robert J. Oberleitner
Director, Technology Center 3600
(571) 272-5350

SJM/SNM: 2/21/06

SM

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#4 Pet. Dismissed

Paper No. 4

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CINGULAR WIRELESS
5565 GLENRIDGE CONNECTOR, 9TH
FLOOR MC 920
C/O LINDA GILES, SYSTEM
ANALYST
ATLANTA, GA 30342

In re Application of
Frank Lazaro and Jamie Sims
Application No. 10/272,795
Filed: October 17, 2002
Title of Invention: PROVIDING
CONTACT DATA IN A WIRELESS
TELECOMMUNICATION SYSTEM

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

This is in response to the Petition under 37 CFR 1.47(a), filed with the instant application on October 17, 2002, and the Supplemental Submission of Declaration in Liue of 1.47(a) Petition, filed on December 9, 2002, noting the joinder of the inventor and rendering the instant Petition filed October 17, 2002, moot.

In view of the joinder of the inventor, in compliance with 37 CFR 1.42, consideration under 37 CFR 1.47(a) is not necessary and the Petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for consideration under 37 CFR 1.47(a).

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

Telephone inquiries should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

JAMES MAGEE, JR.
30 CANTERBURY RD.
CLIFTON PARK, NY 12065

In re Application of	:	
Joseph A. Grohowski	:	
Application No. 10/272,798	:	DECISION ON PETITION
Filed: October 17, 2002	:	TO WITHDRAW
Attorney Docket No. PRX 1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R § 1.36(b), filed November 21, 2005.

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

A review of the file record indicates that the power of attorney to James Magee, Jr. has been revoked by the applicant of the patent application on January 11, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant/assignee or the current attorney of record.

The application will be referred to Technology Center AU 1742 to await a reply to the Non-final Office action mailed April 19, 2006.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc: DD

OLIVER A.M. ZITZMANN
35 HILL ROAD
REDDING CT 06896

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GENERAL ELECTRIC COMPANY
ANDREW C HESS
GE AIRCRAFT ENGINES
ONE NEUMANN WAY M/D H17
CINCINNATI OH 45215-6301

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OFFICE OF PETITIONS

In re Patent No. 6,775,990	:
Issued: 17 August, 2004	: DECISION DISMISSING PETITION
Application No. 10/272,799	: UNDER 37 CFR 3.81(b)
Filed: 17 October, 2002	:
Atty Docket No. 124578	:

This is a decision on the petition, filed on 24 March, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The Office apologizes for the delay in responding to the present petition.

The request is **DISMISSED**.

Petitioner states that the assignee's name is GENERAL ELECTRIC COMPANY and that the assignee's name was unintentionally omitted from the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to GENERAL ELECTRIC COMPANY.

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

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must

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

> state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). As petitioner has failed to comply with the provisions of 37 CFR 3.81(a), the request cannot be granted.

It is noted that petitioners submitted a request for a certificate of correction directed to correction of both the assignee and other errors on 13 September, 2004. A certificate of correction was issued on 21 March, 2005, however. As such, a new request for a certificate of correction of the assignee information, and payment of the fee therefor, must be submitted.

A review of Office database assignment records reflects that an assignment to GENERAL ELECTRIC COMPANY has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that GENERAL ELECTRIC COMPANY was the assignee of record at the time of issuance of the instant application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above **the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth GENERAL ELECTRIC COMPANY as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

The processing fee of $130.00 for this request will be charged to counsel's deposit account.

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth

in this request, as this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3231.

After the submission by petitioner of the request for a certificate of correction to correct the assignee data on the front page of the Letters Patent, any questions pertinent thereto should be directed to the Certificates of Correction Branch at (703) 305-8309.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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1 RIVERFRONT PLAZA
NEWARK, NJ 07102-5497

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kumar Gidwani, et al. :
Application No. 10/272812 :
Filed: October 17, 2002 :
Attorney Docket No. 103327-46397 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 26, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed October 20, 2004. Accordingly, this application became abandoned on January 21, 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. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The file is being forwarded to Technology Center 1600 for review of the amendment, submitted April 26, 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.
ROBERT J. HESS
ONE PENN PLAZA – 37TH FLOOR
NEW YORK, NY 10119-3701

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NOV 16 2004

Paper No. 8

In re Application of :
Nripendra Nath Das *et al* :
Application No. 10/272,820 : DECISION ON PETITION
Filed: October 17, 2002 :
Attorney Docket No. 13DV-13970 (07783-00083-1) :

This is a decision on the petition filed on May 20, 2004 by which petitioners request withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to Office letter dated September 4, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that this application is not abandoned because petitioners did in fact file a timely and proper reply to the Office letter in question. Petitioners support this allegation by submitting a copy of the reply. Petitioners have also furnished a copy of a post card receipt for the filing of the reply, showing that the reply was in fact received in the Office on December 3, 2003, a date within the period set for filing a reply to the Office letter in question. Therefore, it is clear that this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the examiner for prompt action on the response filed on December 3, 2003.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

McNess Wallace & Nurlick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-5300

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JIE ZHOU
MORRISON & FOERSTER LLP
755 PAGE MILL ROAD
PALO ALTO CA 94304-1018

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APR 18 2006

OFFICE OF PETITIONS

In re Application of :
Jennie P. Mather :
Application No. 10/272,835 : ON PETITION
Filed: October 16, 2002 :
Attorney Docket No. 415072001400 :

This is a decision on the petition, filed April10, 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 8, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1643 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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MAY 10 2006

In re Application of GHORBEL ET AL.
Appl. No.: 10/272,846
Filed: October 17, 2002
For: AUTONOMOUS ROBOTIC CRAWLER FOR IN-PIPE INSPECTION

Decision on Petition Under *37 CFR 1.48(a)*

In view of the papers filed March 9, 2006, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of Ryan J. Steger; Cliff Avery Thomas; Demetri Polychronis Spanos; Nathan Christopher Lowery and Betty Wingyi Seto as co-inventors. It is noted that no City or State of Residency has been provided for inventor Betty Wingyi Seto.

Hezron E. Williams
Supervisory Patent Examiner
Art Unit 2856
Patent Examining Technology Center 2800

CONLEY ROSE, P.C.
P. O. BOX 3267
HOUSTON, TX 77253-3267

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SCHIFF HARDIN, LLP
PATENT DEPARTMENT
6600 SEARS TOWER
CHICAGO IL 60606-6473

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OFFICE OF PETITIONS

In re Application of
Hans Schuller
Application No. 10/272,850
Filed: October 16, 2002
Attorney Docket No. **P02,0434**

ON PETITION

This is a decision on the petition filed November 13, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned January 5, 2006 for failure to timely pay the issue fee on or before January 4, 2006. Accordingly, a Notice of Abandonment was mailed February 22, 2006.

The issue fee, publication fee and petition fee have all been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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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.

(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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FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

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In re Application of	:	
Ie, et al.	:	DECISION ON APPLICATION
Application No.10/272,858	:	FOR
Filed: October 16, 2002	:	PATENT TERM ADJUSTMENT

Atty Docket No.: 07844-550001

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER UNDER 37 CFR 1.705(d)," filed December 22, 2008. Applicants request that the patent term adjustment of nine hundred and sixty eight (968) days be adjusted to a determination of one thousand six hundred and thirty eight(1638) days. Applicants also filed a petition under 37 CFR 1.183 to suspend the 37 CFR 1.705(d) and accept the petition for reconsideration of Patent Term along with the instant petition.

The 37 CFR 1.183 petition is **GRANTED**. The request for reconsideration of patent term adjustment is **GRANTED-in-part.** The Office will issue an adjusted PTA of 1570 days. The Office will *sua sponte* issue the certificate of correction.

On July 8, 2008, the above-identified application matured into US Patent No. 7,398,200 with a patent term adjustment of 968 days. This request for reconsideration of patent term adjustment was not timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d). However, applicants

filed a petition under 37 CFR 1.183 to suspend the two months requirements of 37 CFR 1.705(d).

The Office acknowledges submission of the $200.00 and $400.00 fee set forth in 37 CFR 1.18(e), paid on December 22, 2008. No additional fees are required.

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 in view of the decision in Wyeth, they are entitled to a total patent term adjustment of 1638 days, which includes 833 days due to exceeding three year pendency.

The Office finds the following:

"A" delay of 833 days

"B" delay of 765 days. 1.703(b)(10/17/2005-7/8/2008=996) - 1.703(b)(4) reduction((1/17/07-9/4/07=231)

"C" delays of zero

Overlap delays of zero[1]

Applicant delays= 28

So PTA = 833 +765 + 0 - 0 -28= 1570

Since the Office will issue a certificate of correction, patentee is given an opportunity to be heard. Patentee is given one month or 30 (days) whichever is longer to file a response if deemed necessary. The patentee is hereby notified that nothing in this decision provides patentee any additional timeframe to commence a civil action under 35 USC 154.

Telephone inquiries specific to this decision should be directed to Maria Nuzzolillo, Legal Advisor, at (571) 272-8150, or the undersigned at 571-272-7757.

/Kery A. Fries/

[1] It is noted that the "B" delay period for purposes of overlap is for the period June 4, 2006-July 8, 2008. No "A" delay occurred during such period and therefore there is no ovelap between "A" and "B" delay periods. The date of June 4, 2006 was determined by adding 231 (equal to periodd of reduction under 37 CFR 1.703(b)(4)) days to the 36 month anniversary date (10/16/2005).

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Associate Commissioner
for Examination Policy

cc: Adjusted PAIR calculation
Draft Certificate of correction

PALM INTRANET

Day Monday
Date 7/19/2010
Time 10:17:11

PTA Calculations for Application: 10/272858			
Application Filing Date:	10/16/2002	PTO Delay (PTO):	996
Issue Date of Patent:	07/08/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	28
Post-Issue Petitions:	0	Total PTA (days):	1570
PTO Delay Adjustment:	602		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
62	07/18/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	602		
57.5	06/18/2008	PTA 36 MONTHS	163		
57	07/08/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
56	06/06/2008	EXPORT TO FINAL DATA CAPTURE			
55	06/05/2008	DISPATCH TO FDC			
54	06/04/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
53	06/03/2008	RESPONSE TO REASONS FOR ALLOWANCE			
52	06/03/2008	ISSUE FEE PAYMENT VERIFIED			
51	06/03/2008	ISSUE FEE PAYMENT RECEIVED			
50	05/09/2008	FINISHED INITIAL DATA CAPTURE			
49	03/07/2008	EXPORT TO INITIAL DATA CAPTURE			
48	03/03/2008	MAIL NOTICE OF ALLOWANCE			
47	02/29/2008	ISSUE REVISION COMPLETED			
46	02/21/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
45	02/19/2008	DOCUMENT VERIFICATION			
44	02/19/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
43	02/19/2008	NOTICE OF ALLOWABILITY			
41	12/10/2007	DATE FORWARDED TO EXAMINER			
40	12/04/2007	RESPONSE AFTER NON-FINAL ACTION			
39	03/08/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
38	09/04/2007	MAIL NON-FINAL REJECTION			
37	08/30/2007	NON-FINAL REJECTION			
36	06/21/2007	APPEAL BRIEF REVIEW COMPLETE			
35	06/21/2007	DATE FORWARDED TO EXAMINER			
34	05/16/2007	APPEAL BRIEF FILED			
33	05/16/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
32	01/17/2007	NOTICE OF APPEAL FILED			
31	01/10/2007	MAIL ADVISORY ACTION (PTOL - 303)			
30	01/08/2007	ADVISORY ACTION (PTOL-303)			
29	12/29/2006	DATE FORWARDED TO EXAMINER			
28	12/21/2006	AMENDMENT AFTER FINAL REJECTION			
27	10/18/2006	MAIL FINAL REJECTION (PTOL - 326)			
26	10/16/2006	FINAL REJECTION			
25	08/09/2006	DATE FORWARDED TO EXAMINER			
24	07/26/2006	RESPONSE AFTER NON-FINAL ACTION		28	22
23	07/26/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
22	03/28/2006	MAIL NON-FINAL REJECTION	833		-1
21	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
20	03/20/2006	NON-FINAL REJECTION			
19	10/07/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
18	06/26/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
17	05/06/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
16	03/06/2006	CASE DOCKETED TO EXAMINER IN GAU			
15.7	10/07/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	10/07/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	10/07/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	03/28/2004	CORRESPONDENCE ADDRESS CHANGE			
12	08/08/2003	CASE DOCKETED TO EXAMINER IN GAU			
11.7	06/26/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	06/26/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10.7	05/06/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	05/06/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

9	01/20/2003	CASE DOCKETED TO EXAMINER IN GAU			
8	01/07/2003	TRANSFER INQUIRY TO GAU			
7	01/07/2003	TRANSFER INQUIRY TO GAU			
6	12/19/2002	TRANSFER INQUIRY TO GAU			
5	11/27/2002	APPLICATION DISPATCHED FROM OIPE			
4	11/25/2002	APPLICATION IS NOW COMPLETE			
2	10/27/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/16/2002	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.
Back to OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,398,280 B2

DATED : July 8, 2008 **Draft**

INVENTOR(S) : Ie, 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 (1570) days

Delete the phrase "by 968 days" and insert – by 1570 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 3/21/07

TO SPE OF : ART UNIT 1642

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/272899 Patent No.: 7053202 B2

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

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

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

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

/Larry R. Helms/ — SPE

1642 — Art Unit

Staple Here Only

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. .: 7,053,202

APPLICATION NO .: 10/272,899

DATED .: MAY 30, 2006

INVENTOR(S) .: THERESA O'KEEFE, PH.D., JUDITH JACQUES HEALY, WALTER NEWMAN, PAUL PONATH AND BRUCE A. KEYT

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

Please add under References Cited – U.S. Patent Documents -- 2003/0165494 9/4/2003 LaRosa et al.--

Please add under References Cited – Foreign Patent Documents
-- AU 2003213475 8/14/2003
AU 2001233277 8/14/2001
AU 2004208716 9/23/2004
AU 600575 10/10/1988
JP 2003-521927 7/22/2003
JP 2002-521021 7/16/2002 - -

In the claims section, Column 129, claim 16, line 16, replace "neo" with -- *neo* --

In the claims section, Column 130, claim 29, line 22, replace "neo" with -- *neo* --

MAILING ADDRESS OF SENDER:

Laurie Butler Lawrence
Fish & Richardson P.C.
P.O. Box 1022
Minneapolis, Minnesota 55440-1022

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAVID J. SERBIN
LAW OFFICE OF DAVID J. SERBIN
1217 KING STREET
ALEXANDRIA, VA 22314

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AUG 30 2005

OFFICE OF PETITIONS

In re Application of	:	
Pirhonen et al.	:	
Application No. 10/272,938	:	ON PETITION
Filed: October 18, 2002	:	
Attorney Docket No. 000600-043	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 19, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the restriction requirement mailed September 30, 2004, 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 October 31, 2004. A Notice of Abandonment was mailed May 3, 2005.

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

This matter is being referred to Technology Center 1700 for further examination on the merits.

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

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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LAW OFFICE OF DAVID J. SERBIN
1217 KING STREET
ALEXANDRIA, VA 22314

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DEC 18 2006
OFFICE OF PETITIONS

In re Application of	:
Salme Pirhonen et al	:
Application No. 10/272,938	: DECISION GRANTING PETITION
Filed: October 18, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 000600=043	:

This is a decision on the petition, filed December 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 October 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 1712 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Dec10\272938.wpd

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment.*

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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION - WEST BLDG.
WINTON HILL BUSINESS CENTER - BOX 412
6250 CENTER HILL AVENUE
CINCINNAT,I OH 45224

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OFFICE OF PETITIONS

In re Application of

Dria, et al.

Application No. 10/272,968

Filed: October 17, 2002

Attorney Docket No. 8759

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed September 24, 2007.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on March 28, 2007, after it was believed that no response was received to the final Office action mailed December 27, 2006, 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 Notice of Abandonment was mailed on July 24, 2007, indicating that a reply was not received.

A review of the record reveals that a Request for Continued Examination (RCE) intending to be responsive to the final Office action was received on April 24, 2007, along with a request for an extension of time within the first month. It is noted, however, that the RCE was filed with application serial number 10/272,768 because the cover letter for the facsimile cited that incorrect application serial number as did the RCE itself. The undersigned has taken the necessary action to have the RCE removed from application 10/272,768 and the fees paid transferred from application serial number 10/272,768 to the subject application. It is noted that petitioner previously filed a response on August 25, 2006, to an Office action that also cited an incorrect application serial number. The response had to be transferred into the correct application. Petitioner is cautioned to cite the correct application number of **10/272,968** on all future correspondence for this application so as to avoid further delays in the prosecution of this application.

The abandonment will be withdrawn as a proper response was received by the USPTO prior to the expiration of the shortened statutory period for reply to the final Office action.

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 1761, for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Shinji Himori, et al. :
Application No. 10/273,000 :
Filed: October 18, 2002 :
Attorney Docket No. 229452US2CONT :

This is a decision on the petition, filed July 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 June 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1753 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : July 5, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Shinji Himori, et al.
Application No. : 10/273,000
Filed : October 18, 2002

The above-identified application has been assigned Patent No. 6,915,760 and an issue date of July 12, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of July 12, 2005:

> "All reference to Patent No. 6,915,760 to SHINJI HIMORI, ET AL. of JAPAN for PLASMA PROCESSING APPARATUS appearing in the Official Gazette of July 12, 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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Womble Carlyle Sandridge & Rice, PLLC
P.O. Box 7037
Atlanta, GA 30357-0037

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OFFICE OF PETITIONS

In re Application of Ellingson :
Application No. 10/273,009 : Decision on Petition
Filing Date: October 17, 2002 :
Attorney Docket No. A042 1080 :

This is a decision on the petition under 37 CFR 1.181, filed December 6, 2004, to withdraw the holding of abandonment.

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 June 21, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 22, 2004. A Notice of Abandonment was mailed on October 27, 2004.

Petitioner contends, and has established, the Notice of Allowance was never received. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 1774 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will mail a new Notice of Allowance, a new Notice of Allowability, and a new copy of the attachments to the Notice of Allowability including Notice of References Cited, IDS, and Examiner's Reasons for Allowance. The time period for responding to the new Notices will be set to run from the mailing date of the new Notices.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland CO 80537-0599

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OFFICE OF PETITIONS

In re Application of	:	
David V. Blackham and Douglas	:	
K. Rytting	:	
Application No. 10/273,015	:	DECISION ON PETITION
Filed: October 15, 2002	:	
Attorney Docket No. 10004225-1	:	
Title: COMPENSATING FOR UNEQUAL	:	
LOAD AND SOURCE MATCH IN VECTOR	:	
NETWORK ANALYZER CALIBRATION	:	

This is a decision on the petition filed December 23, 2002, requesting that application number 10/273,015 be accorded a filing date of October 15, 2002.

On November 26, 2002, the Office of Initial Patent Examination mailed a Filing Receipt, stating that the application had been accorded a filing date of October 16, 2002.

In response, on December 23, 2002, applicants filed the present petition. Petitioners have included a copy of the Express Mail Label having a number of EU070825720US which is dated October 15, 2002; a copy of the receipt for this Express Mail Label, dated October 15, 2002, and; a copy of the Utility Patent Application Transmittal which contains this Express Mail Label number (which contains a certificate of mailing dated October 15, 2002).

Applicants request that application be accorded a filing date of October 15, 2002.

Petitioner has indicated that the discrepancy was first noted on or about October 26, 2002, when the petitioner received the postcard receipt from the Office. The Filing Receipt arrived on December 2, 2002, bearing the same date. Two months after receiving the postcard receipt, petitioner filed the instant petition.

A check of the United States Postal Service's (USPS) website (http://www.usps.com/shipping/trackandconfirm.htm) shows that the package was accepted by the USPS on October 15, 2002. A check of the Office's USPS Express Mail Finder Database computer program also showed that the package was accepted on October 15, 2002. A copy of these search results is enclosed.

Upon review of the record, the application is date stamped October 16, 2002. However, the evidence is convincing that the application papers were deposited on October 15, 2002 with the USPS, and the Office of Initial Patent Examination (OIPE) subsequently stamped the incorrect date on the application by mistake. Therefore, the application was entitled to a filing date of October 15, 2002.

Accordingly, the petition is **GRANTED**.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 15, 2002, as well as the mailing of a corrected filing receipt.

Any inquiries related to this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and
Trademark Office

Beverly Flanagan
Supervisory Petitions
Examiner
Office of Petitions
United States Patent and
Trademark Office

Encl. Copy of USPS Express Mail Printout (Paper No. 3)
Copy of USPS Express Mail Finder Database printout
(Paper no. 4)

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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

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MAR 1 3 2006

OFFICE OF PETITIONS

In re Patent No. 6,945,517 James Augur Issue Date: September 20, 2005 Application No. 10/273,030 Filed: October 17, 2002 Attorney Docket No. JDA / 02	DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT and NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed September 15, 2005. Patentee requests that the patent term adjustment indicated in the patent be corrected from two hundred twenty-one (221) days to three hundred forty-one (341) 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 three hundred forty-one **(341)** days.

On September 20, 2005, the above-identified application matured into U.S. Patent No. 6,945,517. The instant request for reconsideration filed September 15, 2005 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The

Patent issued with a revised Patent Term Adjustment of 221 days. The initial determination of 341 days was reduced by 120 days for the filing of drawings on April 18, 2005. In effect, patentee disputes this reduction.

A review of the application record supports a conclusion that patentee filed on April 18, 2005, a copy of the drawings as originally filed on October 17, 2002, because the original drawings were misplaced by the Office. The drawings are considered filed prior to the mailing of the notice of allowance (as part of the original application disclosure). In view thereof, no reduction, pursuant to 37 C.F.R. 1.704(c)(10) or any other provision, is warranted.

It is noted that applicant filed a paper on March 29, 2004. However, the record supports a conclusion that this paper was expressly requested by the Examiner. No reduction, pursuant to 37 C.F.R. 1.704(c)(8), is warranted.

In view thereof, the patent term adjustment indicated in the patent should have been three hundred forty-one **(341)** days.

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 23-3000, as authorized. 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 THREE HUNDRED FORTY-ONE (341) days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,945,517 B2

DATED : September 20, 2005

INVENTOR(S) : Augur

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 (221) days

Delete the phrase "by 221" and insert – by 341 days--

#4

OIPE JC10
DEC 1 1 2002
PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT:	Rod Mitchell Walters, et al.	
SERIAL NO.:	10/273,045	**ART UNIT: 3763**
FILED:	October 16, 2002	
FOR:	Dual Chambered Fluid Displacement Apparatus	

To: Commissioner of Patents and Trademarks
Washington, DC 20231

Petition to Grant Correct Filing Date

This application was originally deposited in the mail for filing on October 16, 2002 under a Certificate of Mailing by U.S. Express Mail Post Office to Addressee under 37 C.F.R. §1.10. A copy of this Certificate of Mailing by U.S. Express Mail Post Office to Addressee under 37 C.F.R. §1.10 is attached hereto as Exhibit "A". This Certificate of Mailing meets the requirements set forth in 37 C.F.R. §1.10 to receive a filing date of the date of deposit into the United States Postal Service. When the Patent & Trademark Office issued the Official Filing Receipt, however, the application was inadvertently granted a filing date of October 17, 2002. A copy of the Official Filing Receipt is attached hereto as Exhibit "B" for the Commissioner's convenience. Also attached hereto as Exhibit "C" is a copy of the U.S. Express Mail Post Office to Addressee receipt evidencing the deposit of this application on October 16, 2002. Accordingly, undersigned respectfully requests that the Commissioner issue a corrected Official Filing Receipt and grant this application a filing date of October 16, 2002, as is proper.

Dated: December 6, 2002

Respectfully Submitted:

BERNHARD KRETEN
Applicant's Attorney
Telephone (916) 930-9700
Registration No.: 27,037

CERTIFICATE OF MAILING UNDER 37 C.F.R. 1.10

Applicant: Rod Mitchell Walters, Chi-Chung Chen

For: Dual Chambered Fluid Displacement Apparatus

Paper:

1. A Patent Application (Utility) (comprised of pages 1 through 18);
2. A Utility Patent Application Transmittal;
3. A Fee Transmittal (original and one copy);
4. Non-Publication Request under 35 U.S.C. 122(b)(2)(B)(i);
5. A Declaration for Patent Application;
6. Petition under 37 C.F.R. §1.47(a): Joint Inventor Refuses to Sign;
7. Declaration of William Frassi;
8. A Recordation Form Cover Sheet (original and one copy);
9. An Assignment of Patent Application;
10. A Power of Attorney;
11. Nine (9) sheets of drawing figures (comprised of figures 1 through 13);
12. A Form PTO-1449 (including prior art copies); and
13. A check in the amount of $964.00, $740.00 of which is to cover the government filing fee for utility patent, $130.00 of which is to cover the Petition; $54.00 of which is to cover the government fee for three (3) claims in excess of twenty and $40.00 of which is to cover the government fee for recordation of assignment.

I hereby certify that the above identified correspondence, which is attached, is being deposited with the **United States Postal Service, Express Mail, with sufficient postage, Post Office to Addressee, mailing label #EV130260925US,** in an envelope addressed to:

Assistant Commissioner for Patents
Box Patent Application
Washington, D.C. 20231

on October 16, 2002.

Heidi Hernandez
(Signature)
October 16, 2002
(Date of Signature)

EXHIBIT "A"

3

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
10/273,045	10/17/2002	3763	794	27184-pa	9	23	3

CONFIRMATION NO. 3088

FILING RECEIPT

OC000000009125803

Bernhard Kreten
Suite 1100
300 Capitol Mall
Sacramento, CA 95814

OIPE JC10 DEC 1 1 2002 PATENT & TRADEMARK OFFICE

Date Mailed: 11/19/2002

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)

Rod Mitchell Walters, Reno, NV;
Chih-Chung Chen, Reno, NV;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted 11/19/2002

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Dual chambered fluid displacement apparatus

Preliminary Class

604

EXHIBIT "B"

EV 130260925 US

Customer Copy
Label 11-F, October 2001

EXPRESS MAIL
UNITED STATES POSTAL SERVICE
Post Office To Addressee

ORIGIN (POSTAL USE ONLY)

PO ZIP Code | Day of Delivery: Next / Second | Flat Rate Envelope
Date In: Mo. Day Year | Postage $
Time In: AM PM | Military: 2nd Day / 3rd Day | Return Receipt Fee
Weight: 2 lbs. 8 oz. | Int'l Alpha Country Code | COD Fee | Insurance Fee
No Delivery: Weekend / Holiday | Acceptance Clerk Initials | Total Postage & Fees $ 21.00

DELIVERY (POSTAL USE ONLY)

Delivery Attempt: Mo. Day | Time: AM PM | Employee Signature
Delivery Attempt: Mo. Day | Time: AM PM | Employee Signature
Delivery Date: Mo. Day | Time: AM PM | Employee Signature
WAIVER OF SIGNATURE
NO DELIVERY: Weekend / Holiday

CUSTOMER USE ONLY

METHOD OF PAYMENT:
Express Mail Corporate Acct. No.: X958103
Federal Agency Acct. No. or Postal Service Acct. No.:

FROM: (PLEASE PRINT) PHONE (916) 930-9700
BERNHARD KRETEN & ASSOCIATES
300 CAPITAL MALL STE 1100
SACRAMENTO CA 95814-8328

Hamilton

TO: (PLEASE PRINT) PHONE ( )
Commissioner for Patents
Box Patent Application
Washington, D.C. 20231

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EXHIBIT "C"

3

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

Applicant:		Walters, Rod M., et al.
Serial No.:		10/273,045
Filed:		October 16, 2002
For:		Dual Chambered Fluid Displacement Apparatus
Paper:	1.	Petition to Grant Correct Filing Date (including Exhibits "A" through "C"; and
	2.	A Return Receipt Card.

I hereby certify that the above identified correspondence, which is attached, is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

Assistant Commissioner for Patents
Washington, DC 20231

on December 6, 2002.

Heidi Hernandez
Heidi Hernandez
(Signature)

December 6, 2002
(Date of Signature)

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

Bernhard Kreten
Suite 1100
300 Capitol Mall
Sacramento CA 95814

COPY MAILED

MAR 2 8 2003

OFFICE OF PETITIONS

In re Application of
Walters & Chen
Application No. 10/273,045
Filed: October 16, 2002
Attorney Docket No. 27184-pa
For: DUAL CHAMBERED FLUID DISPLACEMENT APPARATUS

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a) &
: DECISION GRANTING EARLIER
: FILING DATE

This decision is in response to the petition under 37 CFR 1.47(a), filed October 16, 2002, and the petition entitled "Petition to Grant Correct Filing Date," filed December 11, 2002. The filing date petition will be treated under 37 CFR 1.10(c).

PETITION UNDER 37 CFR 1.47(a)

The petition under 37 CFR 1.47(a) is **GRANTED**.

Petitioner has shown that the non-signing inventor, Rod Walters has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of William Frassi establishes that the inventor was twice presented with the application papers, including the specification, claims and drawings and twice orally refused to sign 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 inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Regarding finances, as the petition under 37 CFR 1.47(a) was filed with an acceptable declaration on October 16, 2002, the $130.00 surcharge for filing a late declaration is unnecessary and will be refunded to deposit account no. 11-1734.

PETITION UNDER 37 CFR 1.10(c)

Petitioner requests that the above-identified application be accorded a filing date of October 16, 2002, rather than the presently accorded filing date of October 17, 2002.

Petitioner contends that the above-identified application was deposited in the United States Postal Service (USPS) Express Mail service on October 16, 2002. In support of this contention, petitioner has supplied with the present petition a copy of Express Mail Receipt No. EV130260925US bearing a "date-in" of October 16, 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: EV130260925US.

In view of the above, the petition under 37 CFR 1.10(c) is **GRANTED**.

No fee is associated with this petition.

This application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of **October 16, 2002.** Thereafter, this application file will be forwarded to Technology Center 3700 for examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

ROD WALTERS
8000 OFFENHAUSER DRIVE NO. 13H
RENO NEVADA 89511

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MAR 2 8 2003

OFFICE OF PETITIONS

In re Application of
Walters & Chen
Application No. 10/273,045
Filed: October 16, 2002
Attorney Docket No. 27184-pa
For: DUAL CHAMBERED FLUID
DISPLACEMENT APPARATUS

LETTER

Dear Mr. Walters:

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: Bernhard Kreten
Suite 1100
300 Capitol Mall
Sacramento CA 95814

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AUFRICHTIG STEIN & AUFRICHTIG, PC
300 EAST 42D STREET
5TH FLOOR
NEW YORK, NY 10017

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AUG 03 2007

OFFICE OF PETITIONS

In re Application of	:	
Barbara Cruise et al	:	
Application No. 10/273,061	:	DECISION ON PETITION
Filed: October 17, 2002	:	
Attorney Docket No. P-02212	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 15, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the Office action mailed, November 9, 2004, which set a period for reply of one (1) month or thirty days, whichever was longer. A reply thereto was received on December 9, 2004; however, the reply was found non-responsive and an action was mailed on February 16, 2005 stating that the period for reply remained as set in the December 9, 2004 Office action. A reply thereto was untimely filed on April 20, 2005, as no extensions of time were obtained pursuant to the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on January 9, 2005. A Notice of Abandonment was mailed on July 22, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply, (2) the petition fee of $750, and (3) a proper statement of unintentional delay.

This application has been abandoned for an extended period of time. The U.S. 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 U.S. Patent and Trademark Office).

This application is being referred to Technology Center AU 3677 for appropriate action in the normal course of business on the reply received November 15, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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XILINX, INC.
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE, CA 95124

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MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Guenter Stenz	:	
Application No. 10/273,074	:	ON PETITION
Filed: October 16, 2002	:	
Attorney Docket No. X-973 US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 3, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed September 23, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 24, 2004.

Pursuant to petitioner's authorization, Deposit Account No. 24-0040 was charged a total of $2,900.00 -- $1,500.00 for the petition to revive an unintentionally abandoned application and $1,400.00 for the issue fee.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Commissioner for Patents
United States Patent and Trademark Office
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SEP 25 2006
OFFICE OF PETITIONS

BINGHAM MCCUTCHEN, LLP
Three Embarcadero Center
San Francisco, CA 94111-4067

In re Application of	:	
McCallister, et al.	:	
Application No.: 10/273,081	:	ON PETITION
Filed: October 17, 2002	:	
Attorney Docket No:704957-4001	:	

This is in response to the petition under 37 CFR 1.137(b) filed June 29, 2006.

The petition is **dismissed.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the final Office action mailed June 24, 2005. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A Notice of Appeal was filed on November 23, 2005, with a request for an extension of time within the second month. An appeal brief was not filed thereafter. The application became abandoned on January 24, 2006.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirement of item (1) above.

Item (1) above has not been satisfied because a proper response after the filing of the Notice of Appeal did not accompany the petition. Any renewed petition file must be accompanied by either an appeal brief, amendment placing the application in condition for allowance, or Request for Continued Examination.

The request for an extension of time within the fifth month is noted, but cannot be granted as the request was made outside the maximum statutory period for reply and the application was already in an abandoned status. Deposit account 50-2518 will be refunded $1080.00, accordingly.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 12, 2007

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/273085 Patent No.: 7,095,440 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Elisha Evans
Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

AUNG S. MOE
SUPERVISORY PATENT EXAMINER

SPE

2625
Art Unit

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

LATHROP & CLARK LLP
740 REGENT STREET SUITE 400
P.O. BOX 1507
MADISON, WI 53701-1507

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DEC 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Peter Streuer et al	:	
Application No. 10/273,094	:	DECISION ON PETITION
Filed: October 17, 2002	:	TO WITHDRAW
Attorney Docket No. JCI-471	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed October 16, 2009.

The request is **APPROVED**.

A review of the file record indicates that Marcus W. Sprow: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Marcus W. Sprow has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Marcus W. Sprow
500 Woodward Ave. Suite 2700
Detroit, MI 48226-3489

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United States Patent and Trademark Office
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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MAY 14 2009

OFFICE OF PETITIONS

In re Patent No. 7,486,635	:	
Okanoue et al.	:	DECISION ON
Issue Date: February 3, 2009	:	REQUEST FOR RECONSIDERATION
Application No. 10/273,110	:	OF
Filed: October 18, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 053969-0148	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R.§1.705(d)," filed March 6, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from one thousand one hundred eighty-five(1,185) days to one thousand eight hundred fifty-five (1,855) days. The instant patent issued in the name of NEC Corporation and the instant request for reconsideration is filed by an attorney of record on their behalf.

The request for reconsideration is granted to the extent that the determination has been reconsidered; however, the request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent adjustment determination under 35 U.S.C. § 154(b) of 1,185 days.

On February 3, 2009, the above-identified application matured into U.S. Patent No. 7,486,635 with a patent term adjustment of 1,185 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 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 §154(b)(1)(A) overlaps with a delay under §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), 754 of the 1,204 days, and the period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), of 1,120 days do not overlap as these periods do not occur on the same day.

Patentees argue that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), is 1,204 days. This 1,204 day period is calculated based on the application having been filed under 35 U.S.C. §111 on October 18, 2002, and the patent having not issued until February 3, 2009, three years and 1,204 days later. Patentees assert that in addition to this 1,204 day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a) of 1,120 days 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), pursuant to § 1.702(a)(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 applicants 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 19 days for applicant delay is not in dispute. Patentees assert that the total period of Office delay is the sum of the period of Three Years Delay (1,204 days) and the period of Examination Delay (1,120 days) to the extent that these periods of delay are not overlapping.

Patentees contend that only 450 days of the period of delay of 1,120 days for the Office's failure 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 (December 19, 2003 to January 11, 2007) overlap with the Three Year Delay period (October 19, 2005 to February 3, 2009). Patentees assert that this overlapping period is the 450 days running from October 19, 2005 to January 11, 2007.

Accordingly, patentees submit that the total period of Office Delay is 1,874 days, which is the sum of the period of Three

Year Delay (1,204 days) and the period of Examination Delay (1,120 days), reduced by the period of overlap (450 days).

As such, patentees assert entitlement to a patent term adjustment of 1,855 days (1,204 +1,120 reduced by 450 overlap - 19 for applicant delay).

The Office agrees that the patent issued 3 years and 1,204 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of period of adjustment of 1,120 days is correct. At issue is whether patentees should accrue 754 (adjusted for overlap, per patentees' calculations) days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 1,120 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the 1,204 period of Three Year Delay overlaps with the 1,185 days accorded during the pendency of the application. Patentees' interpretation of the period of overlap has been considered and found to be incorrect. 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[1]

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 other words, consideration of the overlap does not begin three years after the filing date of the application. Treating the relevant period as starting on October 19, 2005, the date that is 3 years after the actual filing date of the application is incorrect.

---

[1] 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).

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, November 18, 2002 to February 3, 2009. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). 1,120 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame during the pendency of the application. The 1,204 days for Office delay in issuing the patent overlaps with the 1,120 accorded during the pendency of the application. During that time, the issuance of the patent was delayed by 1,204 days, not 1,120 + 754 days. The Office took 14 months and 1,120 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 1,120 days of Office delay and the time allowed within the timeframes for processing and examination, and applicant delays, the patent issued, three years and 1,204 days after its filing date. Accordingly, 84 days of patent term adjustment was properly entered since the period of delay of 1,204 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 1,120 days attributable to ground specified in § 1.702(a)(1).

Accordingly, at issuance, the Office properly entered 84 additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent for a total Office delay of 1,204 days.

In view thereof, the revised determination of patent term adjustment at the time of the issuance of the patent remains 1,185 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
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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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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MAR 08 2010

In re Patent No. 7,486,635	:	DECISION ON REQUEST
Okanoue, et al.	:	FOR RECONSIDERATION OF
Issue Date: February 3, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/273,110	:	and
Filed: October 18, 2002	:	NOTICE OF INTENT TO ISSUE
Atty. Docket No. 053969-0148	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on July 13, 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 eight hundred fifty-five (1,855) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand eight hundred fifty-five (1,855) days is **GRANTED**.

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 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 eight hundred fifty-five (1,855) days.

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 DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,486,635 B2

DATED : February 3, 2009

INVENTOR(S) : Kazuhiro Okanoue, 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 (1,185) days

Delete the phrase "by 1,185 days" and insert – by 1,855 days--

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

COOK, ALEX, MCFARRON,
MANZO, CUMMINGES & MEHLER
SUITE 2850
200 WEST ADAMS STREET
CHICAGO IL 60606

In re Application of	:	
Akira Ishikawa	:	
Application No. 10/273,134	:	ON PETITION
Filed: October 17, 2002	:	
Attorney Docket No. 0553-0336	:	

This is a decision on the petition, filed February 27, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 6, 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 2826 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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JOHN S. HALE
GIPPLE & HALE
6665-A OLD DOMINION DRIVE
MCLEAN, VA 22101

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JUN 1 0 2005

OFFICE OF PETITIONS

In re Application of :
Yolanda Denise Shepard :
Application No. 10/273,177 :
Filed: October 18, 2002 :
Attorney Docket No. X-9393 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed June 3, 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(a)."

This application became abandoned for failure to timely reply to the non-final Office action mailed March 17, 2004. Accordingly, this application became abandoned on June 16, 2005. A Notice of Abandonment was mailed on October 15, 2004.

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. 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 § 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 paragraph (c) of this section.

This petition lacks item (3) above.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Petitioner asserts that the delay was caused by non-receipt of the non-final Office action. However, the showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

Accordingly, the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JOHN S. HALE
GIPPLE & HALE
6665-A OLD DOMINION DRIVE
MCLEAN, VA 22101

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OFFICE OF PETITIONS

In re Application of :
Yolanda Denise Shepard :
Application No. 10/273,177 : ON PETITION
Filed: October 18, 2002 :
Attorney Docket No. X-9393 :

This is a decision on the renewed petition under 37 CFR 1.137(a), filed August 10, 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 March 17, 2004. Accordingly, this application became abandoned on June 18, 2004. A Notice of Abandonment was mailed on October 15, 2004.

Petitioner contends the Office action was never received by applicant. 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.

Petitioner has submitted the necessary statement and docket records that indicate non-receipt of the Office action. As such, the petition is granted.

This application is being forwarded to the Technology Center 3700 for review of the amendment filed August 10, 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
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 6/11/07

TO SPE OF : ART UNIT 3723

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/823194 Patent No: 7201647 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Approved, these corrections should have been entered as per entry of AF amendment on 6/14/06.

~~EILEEN P. MORGAN~~
PRIMARY EXAMINER

3723

SPE — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 4

BRACEWELL & PATTERSON, L.L.P.
711 LOUISIANA STREET, SUITE 2900
HOUSTON, TX 77002-2781

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MAR 1 4 2003

OFFICE OF PETITIONS

In re Application of
Richard G. Parker et al
Application No. 10/273,214
Filed: October 17, 2002
For: METHOD, SYSTEM AND PROGRAM PRODUCT FOR AUTOMATED DOCUMENT EXPORT CONTROL

: DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT

This is in response to the petition under 37 CFR 1.47(a), filed on October 17, 2002, and the papers filed on February 21, 2003, which include a declaration signed by previously nonsigning inventor Richard G. Parker in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application is being forwarded to the Initial Patent Examination Unit for pre-examination processing.

Inquiries related to this decision may be addressed to Irvin Dingle at (703) 306-5684.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 3

KEITH M. BAXTER
QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
MILWAUKEE, WI 53202-4497

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JUL 0 8 2003

OFFICE OF PETITIONS

In re Application of :
Gregory Hartig et al :
Application No. 10/273,215 : NOTICE
Filed: October 16, 2002 :
Attorney Docket No. 960296.99144

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center 3700.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

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OCT 22 2009

OFFICE OF PETITIONS

In re Patent No. 6,664,704	:	
Issue Date: December 16, 2003	:	
Application No. 10/273,238	:	ON PETITION
Filed: October 17, 2002	:	
Attorney Docket No. 028808-00028	:	

This is a decision on the petition under 37 CFR 1.378(c), filed September 5, 2008, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on December 16, 2007 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

The patent file is being forwarded to Files Repository.

April M. Wise
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Intellectual Property Group
Bose McKinney & Evans LLP
2700 First Indiana Plaza
135 North Pennsylvania Street
Indianapolis IN 46204

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OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Lee et al. :
Application No.: 10/273,242 :
Filing Date: October 17, 2002 :
Docket No.: 13896-0002 :
For: Room Temperature Synthesis Of :
Multiwalled Carbon Nanostructures :

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on June 12, 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 March 9, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 9, 2006. No Notice of Abandonment was mailed.

Petitioner has met the requirements for revival under 37 CFR 1.137(b). Petitioner submitted the reply in the form of the Issue Fee and Publication Fee (if required), 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

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AUG 15 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

#5

STANLEY H. KREMEN
4 LENAPE LANE
EAST BRUNSWICK NJ 08816

Paper No. 4

In re Application of: Manuel Saez Serial No. 10/273,279 Filed: October 17, 2002 For: BICYCLE LOCKING STAND THAT PREVENTS DAMAGE TO URBAN TREES	DECISION ON PETITION TO MAKE SPECIAL (ENVIRONMENTAL QUALITY)

This is a decision on the petition filed October 17, 2002 under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section V: Environmental Quality.

A grantable petition to make an application special under 37 C. F. R. 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by affidavits or declaration under 37 CFR 1.102 by the applicant or his attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

The petition states that the present invention provides greater availability of parking for cyclists, more than would be available than about a single tree and that the greater availability of parking for cyclists will promote the use of bicycles for private transportation instead of automobiles. Further, the device may protect trees from damage and lower air pollution from automobile exhaust due to the lessening dependence of automobiles in favor of bicycles. This statement is adequate to establish for the record that the invention "materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life sustaining natural elements."

For the above stated reasons, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/ekn: 8/6/03

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

HELLER EHRMAN WHITE & MCAULIFFE LLP
4350 LA JOLLA VILLAGE DRIVE
7TH FLOOR
SAN DIEGO CA 92122-1246

In re Application of
Braun, et al.
Application No. 10/273,321
Filed: October 15, 2002
Attorney Docket No. 24736-2033B

ON PETITION

This is a decision on the "Petition under 37 CFR 1.182--Petition to Change Order of Inventors" filed April 18, 2003.

The petition is **granted**.

The order of the names of the inventors has been changed to the following:

1. Andreas Braun
2. Dirk Van Den Boom
3. Ping Yip
4. Charlie Rodi
5. Liyan He
6. Norman Chiu
7. Christian Jurinke
8. Hubert Koster

The application file is being forwarded to the Technology Center 3700 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

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GRANT ANDERSON LLP
C/O PORTFOLIOIP
PO BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 04/29/2010

Applicant	: Andreas Braun	: DECISION ON REQUEST FOR
Patent Number	: 7668658	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/273,321	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/15/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **126** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OCT 25 2005

CROWELL & MORNING, LLP
INTELLECTUAL PROPERTY GROUP
P. O. BOX 14300
WASHINGTON, DC 20044-4300

In re Application of	:
Matthias Gerlach	:
Serial No.: 10/273,344	: PETITION DECISION
Filed: October 18, 2002	:
Attorney Docket No.: 029310.51508US	:

This is in response to the petition under 37 CFR 1.144, filed September 19, 2005, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on October 18, 2002, and contained claims 1-32. In a first Office action, mailed May 25, 2004, the examiner set forth a restriction requirement, as follows:

Group I – Claims 1-32 (in part), drawn to a compound of Formula I wherein A is a three-membered ring fragment;
Group II – Claims 1-32 (in part), drawn to a compound of Formula I wherein A is a four-membered ring fragment.

The examiner reasoned that the groups are drawn to dissimilar compounds based on their structures and are not art-recognized equivalents. An election of species was required within whichever Group was elected.

Applicants replied on July 26, 2004, electing the claims of Group II and traversing the requirement on the basis that restriction cannot be made within a claim. A species was also elected, as required.

The examiner mailed a new Office action to applicants on October 14, 2004, acknowledging the election of Group II and the species and responded to the traverse arguing that the requirement was made in a National stage application and PCT rules governed and that the compounds lacked a common structure between the groups. The requirement was maintained and made Final. Claims 29-32 were then rejected under 35 U.S.C. 112, first paragraph, as lacking enablement and

claims 10-11 and 27 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. All other claims were objected to as containing non-elected subject matter which was requested to be canceled.

Applicants replied on February 14, 2005, amending claims 10, 27, 29-30 and 32. The restriction requirement was again traversed on the basis that restriction within a claim is improper based on *In re Weber* and other decisions and argued that the examiner should follow the guidance in M.P.E.P. 803.02. The rejections of record were also argued as overcome by the amendments.

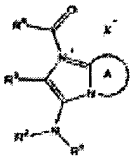
The examiner mailed a non-Final Office action to applicants on May 17, 2005, withdrawing the rejections under 35 U.S.C. 112, second paragraph, but maintaining the rejection of claims 29-30 and 32 under 35 U.S.C. 112, first paragraph, and the restriction requirement. The examiner argued that the fused ring systems represented by Formula I are different and are classified and searched separately and places an undue burden on the Office if required to be searched. The examiner argued also that the "unity of invention" standard enunciated is not met when the core structures are different.

Applicants replied on September 19, 2005, by filing this petition and a reply to the Office action amending claims 29-30 and 32 and requesting a suspension of proceedings pending decision on the petition.

DISCUSSION

The request for suspension of proceedings set forth in the reply to the Office action will not be accommodated as it is not in the form of a petition. Further, any such request is obviated by this decision.

A review of the restriction requirement shows that it is based on the structure of Formula I, as shown:



I

Each of the variables is properly defined. The restriction requirement is based on the differing values for variable A. A is defined as a 3- or 4-membered ring fragment which is fused to the imidazole ring at the 1,2 positions, thus forming a fused 5,5 or 5,6-membered fused ring structure. Ring A may be saturated or unsaturated.

The examiner's argument that this is a National stage application and that restriction is governed by Lack of Unity rules was in error, but did not affect the manner in which the restriction requirement was set forth or maintained.

Applicant correctly argues that *In re Weber* (and other decisions) sets forth a standard for a proper Markush group as being comprised of related compounds that (a) have a common utility and (b) have a common structure. (It does not stand for the proposition that restriction of a Markush group within a claim is always prohibited as alleged by applicant.) Here there is no disagreement that the compounds claimed have a common utility. The dispute arises in defining the common structure on which "unity of invention" is based. Applicants would have the imidazole ring be the basis for the common structure whereas the examiner has defined the fused ring system as the common structure.

It is noted that *In re Weber* did relate to a compound having a ring structure, however only a single ring was present (which formed the basis for commonality of structure) and the restriction requirement had been based on the variables bonded to the ring. It is well accepted that where a ring structure is present it is the most likely starting place for determining what structure is common to all claimed compounds. The same holds true whether the structure is a single ring system, multiple ring system or fused ring system. Here there is a fused ring system defined by Formula I on the basis of A being a ring fragment bonded to the imidazole ring. However, since A can be either a three- or four-membered ring fragment, Formula I is found to represent two different fused ring structures. It is noted that the fused ring structures are required for the activity or utility alleged. Thus, as correctly stated by the examiner, common utility is satisfied, but common structure is not. The restriction is proper. The examiner has acted on the elected Group in accordance with M.P.E.P. 803.02 following the election of species, as required.

DECISION

The petition is **DENIED** for the reasons set forth above.

The application will be forwarded to the examiner for consideration of applicant's reply of September 19, 2005.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott
Director, Technology Center 1600

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NOV -2 2004

Paper No. 7

In re Application of :
John McCarvill *et al* :
Application No. 10/273,345 : DECISION ON PETITION
Filed: October 18, 2002 :
Attorney Docket No. 839-1329 :

This is a decision on the petition filed on September 30, 2004, by which petitioners request withdrawal of the holding that this application stands abandoned for failure to file a timely reply to the Office action dated October 30, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that this application is not abandoned because petitioners did in fact file a timely and proper reply to the Office letter in question. Petitioners support this allegation by submitting a copy of the reply, and a copy of a post card receipt for the filing of the reply, showing that the reply was in fact received in the Office on November 12, 2003, a date within the period for filing a reply to Office letter in question. Therefore, it is clear that this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the reply that is attached to the petition. The date to which the reply is entitled is November 12, 2003. Thereafter, the application will be forwarded to the examiner for immediate consideration and appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Nixon & Vanderhye P.C.
1100 North Glebe Road
8th Floor
Arlington, VA 22201

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Paper No. 4

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

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OFFICE OF PETITIONS

In re Application of	:	
Suzuki	:	
Application No. 10/273,347	:	ON PETITION
Filed: October 18, 2002	:	
Attorney Docket No. 016887/1076	:	

This a decision on the petition filed December 24, 2002, to accord the above-identified application a filing date of October 18, 2002.

The petition is **granted**.

A Notice of Incomplete Response was mailed on November 27, 2002, stating that the specification does not contain at least one claim. In response, petitioner has established that the original application had a section entitled, "What is Claimed is:". The section was composed of numbered paragraphs with the claims written predominately in Japanese.

The petition fee of $130 will be refunded to deposit account no. 19-0741.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of October 18, 2002, and for further processing.

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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1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of :
Peter Baron :
Application No. 10/273,350 : ON PETITION
Filed: October 18, 2002 :
Attorney Docket No. 2495-107 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 8, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed November 23, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 24, 2006.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being forwarded to Technology Center AU 1761 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

In re Application of	:	
Hal Christopher SALTER	:	
Application No. 10/273,353	:	DECISION ON PETITION
Filed: October 18, 2002	:	TO WITHDRAW
Attorney Docket No. 3017.2.3NP	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 18, 2010.

The request is **NOT APPROVED because it is moot.**

A review of the file record indicates that the power of attorney to Keith E. George and all the attorneys of record, has been revoked by the assignee of the patent application on April 14, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

/dcg/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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TC 3600

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

In re application of
Martin Koerber et al.
Application No. 10/273,363
Filed: October 18, 2002
For: MANUAL TRANSMISSION HAVING A LOCKING DEVICE FOR LOCKING INDIVIDUAL GEARS

DECISION ON PETITION TO RESET A PERIOD FOR REPLY

This is in reply to the Petition to Reset Time Period, received in the Patent and Trademark Office on January 15, 2004. There is no fee required for this petition.

The petition is **DENIED**.

In accordance with MPEP 710.06, the Office will grant a petition to reset the period for reply when the following criteria are met: (A) the petition is filed within 2 weeks of the date of receipt of the Office action at the correspondence address; (B) a substantial portion of the set reply period had elapsed on the date of receipt (e.g. at least 1 month of a 2- or 3- month reply period had elapsed); and (C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address, and (2) a statement setting forth the date of receipt of the Office action at the correspondence address and explaining how the evidence being presented establishes the date of receipt.

The request fails to meet the requirements of (B) and (C)(1) above.

With regards to (B), a review of the file record reveals that an Office action was mailed to the address of record on December 19, 2003. Applicant states that the Office action was received at the address of record on January 12, 2004. The elapsed period is 24 days and thus does not meet the at least 1 month of a 2- or 3- month reply period criteria.

With regards to (C)(1), the evidence provided by the applicants in the petition are photocopies of the cover page of the Office action, the envelope in which the Office was mailed, and a blank sheet having a receipt date stamp of January 12, 2004 (the alleged date of receipt of the Office action at the correspondence address of record).

Neither the Office action nor the envelope in which it was mailed are stamped with the receipt date of January 12, 2004. There is no evidence of record which directly associates the receipt date stamp of January 12, 2004 with the Office action and/or mailing envelope.

SUMMARY: The Petition to Reset Time Period is **DENIED**.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/mjz: 2/23/04

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In re Application of	: DECISION ON REQUEST
Martin Koerber et al	: UNDER 37 CFR 1.97
Serial No: 10/273,363	: FOR CONSIDERATION
Filed: October 18, 2002	: OF INFORMATION
For: MANUAL TRANSMISSION HAVING A LOCKING DEVICE FOR LOCKING INDIVIDUAL GEARS	: DISCLOSURE STATEMENT

The request under 37 CFR 1.97(d) for consideration of an information disclosure statement filed on June 29, 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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KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

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OFFICE OF PETITIONS

In re Application of Toshikazu Kobayashi Application No. 10/273,383 Filed: October 17, 2002 Attorney Docket No. 100809-00208 (SCEY20.040)	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed December 11, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 15, 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 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). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

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Tom Hunter
Beyer Weaver, LLP
500 12th Street, Suite 200
Oakland, CA 94607

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In re Patent No. 7,166,578 :
Issue Date: January 23, 2007 :
Application No. 10/273,386 : NOTICE
Filed: October 16, 2002 :
Patentee(s): Alan M. Fogelman, et. al. :

This is a notice regarding a communication for acceptance of a fee deficiency submission under 37 CFR 1.28 filed on September 7, 2007. 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.

It is not apparent whether the person signing the instant request was ever given a power of attorney or authorization of agent to prosecute the above-identified patent. 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.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and all future fees paid must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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SUITE 480
SAN JOSE CA 95113

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OFFICE OF PETITIONS

In re Application of
Utsunomiya et al.
Application No. 10/273,389
Filed: October 16, 2002
Attorney Docket No. UKOM.P0001

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed March 26, 2007 to revive the above-identified application.

This application became abandoned for failure to timely submit corrected drawings, as required by the Notice of Drawing Inconsistency which was mailed August 31, 2006 and set a one (1) month period for reply. Extensions of time were not available under 37 CFR §1.136(a). Accordingly, this application became abandoned on October 1, 2006. A Notice of Abandonment was mailed on February 28, 2007.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition. However, the Office will mail all future correspondence solely to the address of record.

This application is being forwarded to the Office of Patent Publication for review of the drawings submitted on January 30, 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

cc: Gregory Suh
P.O. Box 51860
Palo Alto, CA 94303-0728

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JUN 20 2005

Wallenstein & Wagner, Ltd.
53rd Floor
311 S. Wacker Drive
Chicago, IL 60606-6630

In re Application of VALENTI, F. PAUL Appl. No.: 10/273,391 Filed: October 17, 2002 For: TAG WITH FOLDING REINFORCEMENT	**WITHDRAWAL FROM ISSUE** *37 CFR 1.313*

The above-identified application is withdrawn from issue to permit re-opening of prosecution. See 37 CFR 1.313.

The above-identified application is hereby **withdrawn from issue**.

Subsequent to the mailing of the Notice of Allowability, a new issue was discovered that was believed to pose a significant bearing on the patentability of at least one claim pending in the allowed application. The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

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.

3617

Telephone inquiries regarding this notice should be directed to S. Joseph Morano, Supervisory Patent Examiner for Art Unit 3617, at (571) 272-6684. Telephone inquiries regarding the status of the claims and other examination on the merits issues should be directed to the examiner of record, Lars Olson, at (571) 272-6685.

Robert J. Oberleitner
Director, Patent Technology Center 3600

SJM: 6/17/05

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APR 19 2007

OFFICE OF PETITIONS

Arthur J. Plantamura
General Chemical Corp
90 East Halsey Road
Parsippany NJ 07054

In re Application of	:	
John C. Moore	:	
Application No. 10/273,393	:	ON PETITION
Filed: October 17, 2002	:	
Attorney Docket No. GC-223	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 12, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed May 26, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on June 27, 2006. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 1746 for appropriate action on the concurrently filed appeal brief.

Liana Walsh
Petitions Examiner
Office of Petitions

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ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS MO 63102

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OFFICE OF PETITIONS

In re Application of	:	
Sorebo et al.	:	DECISION GRANTING
Application No. 10/273,398	:	PETITION
Filed: 17 October, 2002	:	
Att'y Dkt No. KCC 4893 (K-C No. 12,	:	

This is a decision in reference to the paper filed on 12 February, 2003, entitled "Letter in Response to Notice of Incomplete Nonprovisional Application" which is treated as a petition under 37 CFR 1.53(e) to withdraw the Notice mailed on 4 February, 2003.

The petition is **GRANTED**.

On 17 October, 2002, the application was filed. On 4 February, 2003, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that the application had not been assigned a filing date because the application did not include a complete specification as prescribed by 35 U.S.C. § 112, including a written description of the invention. The Notice also stated that the application did not include an abstract of the technical disclosure as required by 37 CFR 1.72(b). A two (2)-month period for reply was set.

In response, on 12 February, 2003, the present petition was filed, accompanied by a petition fee of $130.00. Petitioners have included a copy of the 39 pages of specification, including 29 claims and one (1) page of abstract and 7 sheets of drawings asserted to have been previously filed.

A review of the Official file reveals that 39 pages of specification, including 31 pages of written description, seven (7) pages containing 29 claims, and one (1) page of abstract are among the application papers received on 17 October, 2002.

The "Notice" mailed on 4 February, 2002, was sent in error and is vacated. Petitioners may request refund of the $130.00 petition fee by writing to the Office of Finance, ATTN: Refund Section. A copy of this decision should accompany petitioners' request.

The application will be processed and examined using the application papers filed on 17 October, 2002. The copy of the application papers filed on 12 February, 2003, will not be used for processing or examination, but will be retained in the application file.

The application file is being forwarded to Technology Center 3600 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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JAN 13 2003

OFFICE OF PETITIONS

In re Application of
Bills, et al.
Application No. 10/273,402
Filed: October 16, 2002
Attorney Docket No. 0100.1019-016
For: APPARATUS AND METHODS FOR HEAT LOSS PRESSURE MEASUREMENT

: DECISION GRANTING
: PETITION

This is a decision on the petition filed November 7, 2002 entitled, "TRANSMITTAL TO CORRECT FILING DATE FOR UTILITY PATENT APPLICATION AND PETITION UNDER 37 CFR 1.10 ", requesting that the above-identified application be accorded a filing date of October 16, 2002 rather than the presently accorded filing date of October 17, 2002.

Petitioners request the earlier filing date on the basis that the application was deposited in Express Mail service of the United States Postal Service (USPS) on October 16, 2002, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EL928206980US showing a date in of October 17, 2002 **and** a USPS date stamped postmark of October 16, 2002. The same Express Mail label number is found on the original application papers.

The evidence presented establishes that the Express Mail package associated with Express Mail label no. EL928206980US was deposited with the USPS on October 16, 2002.

Accordingly, the petition is granted.

No fee has been or will be charged in connection with this petition.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **October 16, 2002.**

Any inquiries related to this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
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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HAMILTON BROOK SMITH & REYNOLDS PC
530 VIRGINIA ROAD
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CONCORD, MA 01742-9133

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NOV 2 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Daniel G. Bills et al	:	
Application No. 10/273,402	:	DECISION GRANTING PETITION
Filed: October 16, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0100.1019-016	:	

This is a decision on the petition, filed November 23, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 21, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2855 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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ALEXANDRIA, VA 22313-1450
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Paper No. None

Roberts Abokhair & Mardula, LLC
Suite 1000
11800 Sunrise Valley Drive
Reston VA 20191

COPY MAILED
AUG 23 2006
OFFICE OF PETITIONS

In re Application of Timothy A. Lemke et al. Application No. 10/273,410 Filing Date: October 17, 2002 Attorney Docket No.: 2678-002 Title: HIGH SPEED, CONTROLLED IMPEDANCE AIR DIELECTRIC CIRCUIT MODULES FOR ELECTRONIC BACKPLANE SYSTEMS	:	DECISION ON PETITIONS UNDER 37 C.F.R. §§1.78(A)(3) AND (A)(6)

This is a decision on the petition filed January 27, 2006, which is being treated as a petition under 37 CFR §§ 1.78(a)(3) and (a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of nonprovisional application number 10/015,985, filed November 2, 2001, and nonprovisional application number 10/273,410, filed October 19, 2001, as set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

In regards to the request to claim benefit to application number 10/273,410, Petitioner's request cannot be granted. The specification, as filed, claims the benefit of 60/348,196. The amendment submitted with the present petition deletes the reference to this provisional application, and includes the text that "this application further claims benefit under 35 U.S.C. § 119(e) of provisional U.S. patent application no. 10/273,410, filed October 19, 2001." Petitioner's request cannot be granted, as is clear that 10/273,410 is not a provisional application. Furthermore, an application cannot claim priority to itself.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

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[1]. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay was intentional, petitioner must notify the Office.

Frances Hicks
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

cc: CONDO,JOSEPH
Woodcock Washburn LLP
One Liberty Place, 46th Floor
Philadelphia, PA 19103

1 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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United States Patent and Trademark Office
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Paper No. None

Roberts Abokhair & Mardula, LLC
Suite 1000
11800 Sunrise Valley Drive
Reston VA 20191

COPY MAILED

OCT 01 2007

OFFICE OF PETITIONS

In re Application of :
Timothy A. Lemke et al. :
Application No. 10/273,410 :
Filing Date: October 17, 2002 :
Attorney Docket No.: 2678-002 :
Title: HIGH SPEED, CONTROLLED :
IMPEDANCE AIR DIELECTRIC :
CIRCUIT MODULES FOR ELECTRONIC :
BACKPLANE SYSTEMS :

DECISION ON RENEWED PETITIONS UNDER 37 C.F.R. §§ 1.78(A)(3) AND (A)(6)

This is a decision on the renewed petition filed October 18, 2006 pursuant to 37 C.F.R. §§ 1.78(a)(3) and (a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of nonprovisional application number 10/015,985, filed November 2, 2001, provisional application number 60,245,617, filed November 3, 2000, and provisional application number 60/348,196, filed October 19, 2001, as set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

The original petitions were filed on January 27, 2006, and were dismissed via the mailing of a decision on August 23, 2006.

A petition for acceptance of a claim for late priority under 37 C.F.R. §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 C.F.R. §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In

addition, the petition under 37 C.F.R. §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 C.F.R. §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional.

The Commissioner may require additional where there is a question whether the delay was unintentional.

This nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 C.F.R. 1.78(a)(5)(ii).

The filing date of provisional application No. 60/245,617, for which priority is claimed is November 3, 2000, and thus, was filed within twelve months of intermediate application No. 10/015,985, filed November 2, 2001, of which this application claims to be a continuation-in-part.

Additionally, this application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/348,196, which was filed on October 19, 2001, for which priority is claimed.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 C.F.R. §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 C.F.R. 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning

that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Senior Attorney Paul Shanoski at (571) 272-3225. 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 2817 for appropriate action on the amendment submitted on October 18, 2006, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Nancy Johnson
Senior Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/273,410	10/17/2002	2817	1002	2678-002	21	3

CONFIRMATION NO. 9733

CORRECTED FILING RECEIPT

OC000000025240123

Roberts Abokhair & Mardula, LLC
Suite 1000
11800 Sunrise Valley Drive
Reston, VA 20191

Date Mailed: 09/28/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Timothy A. Lemke, Dillsburg, PA;
Richard A. Elco, Mechanicsburg, PA;

Power of Attorney: The patent practitioners associated with Customer Number **22208**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/015,985 11/02/2001 ABN
which claims benefit of 60/245,617 11/03/2000
This application 10/273,410
claims benefit of 60/348,196 10/19/2001

Foreign Applications

If Required, Foreign Filing License Granted: 12/11/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/273,410

Projected Publication Date: 11/22/2007

Non-Publication Request: No

Early Publication Request: No

Title

High speed, controlled impedance air dielectric electronic backplane systems

Preliminary Class

333

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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IVAX CORPORATION
4400 BISCAYNE BOULEVARD
MIAMI FL 33137

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MAY 24 2006
OFFICE OF PETITIONS

In re Application of
Tom Brennan et al.
Application No. 10/273,455
Filed: October 18, 2002
Attorney Docket No. NHC17826-USA

: 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 January 19, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional application, as set forth in the concurrently filed amendment .

The petition is **DISMISSED AS MOOT**.

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.

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 provisional application was filed on October 18, 2002, and was pending at the time of the filing of the instant petition. While a reference to the prior-filed provisional 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 and the declaration filed with the above identified application.

The current procedure where a claim for priority under 37 CFR § 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application with the time period set forth in 37 CFR § 1.78(a)(5)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will

be required to accept a late claim for priority under 37 CFR § 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of the prior-filed provisional application in the transmittal letter and declaration filed with the application, as shown by its inclusion on the filing receipt.

In vew of the above, the $1370.00 petition fee submitted is unnecessary and will be refunded to deposit account no. 50-0943 in due course.

Any questions concerning this decision on petition 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 the Technology Center.

This matter is being referred to Technology Center Art Unit 1618 for appropriate action on the amendment filed January 19, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 119(e) to the prior-filed provisional application.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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VISTEON
C/O BRINKS HOFER GILSON & LIONE
PO BOX 10395
CHICAGO IL 60610

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OFFICE OF PETITIONS

In re Application of :
Paul Allen Berneis et al. :
Application No. 10/273,465 :
Filed: October 18, 2002 :
Attorney Docket No.: 10541 :
Title: POWER MANAGEMENT SYSTEM :
AND METHOD FOR AN AUTOMOBILE :

DECISION ON PETITION

This is a decision on the petition under 37 CFR § 1.137(b)[1], filed July 12, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed January 22, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees or publication fees[2]. Accordingly, the above-identified application became abandoned on April 23, 2004. A Notice of Abandonment was mailed May 27, 2004.

With the instant petition, Petitioner has met the requirements to revive the above-identified application, pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of the filing of the issue, publication, and petition fees, and has made the proper statement of unintentional delay.

---

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2 See MPEP §710.02(e).

The petition is **GRANTED**.

After this decision is mailed, the application will be forwarded to the Office of Patent Publication for further processing into a patent.

Questions pertaining to this application should be directed towards the Office of Patent Publication at (703) 305-8497.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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JUL 19 2004

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MAILED
JUL 19 2004
OFFICE OF THE DIRECTOR
TC 3600

The Law Office of Craig W. Barber
PO Box 16220
Golden, CO 80402-6004

In re Application of :
Thomas R. Jemison :
Serial No. 10/273,475 : WITHDRAWAL FROM ISSUE
Filed October 18, 2002 :
For: DEVICE FOR HYGIENICALLY :
COLLECTING AND DISPOSING OF :
CANINE AND FELINE WASTE :

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

Robert J. Oberleitner, Director
Technology Center 3600
Phone: (703) 308-1134
Fax: (703) 308-2177

cc: Office of Publications (2 copies)

Best Available Copy

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Alexandria, VA 22313-1450

MAY 5 2006

TANYA A. ARENSON
MEDLEN & CARROLL, LLP
101 HOWARD STREET, SUITE 350
SAN FRANCISCO, CA 94105

In re Application of	:
Friedhelm Hildebrandt et al	:
Serial No.: 10/273,476	: DECISION ON PETITION
Filed : 18 October 2002	:
Attorney Docket No.: UM-07447	:

This letter is in response to applicant's Petition filed 21 February 2006 under 37 C.F.R. 1.144 and 1.181 requesting review of the restriction requirement set forth in the communication mailed 28 July 2005 and made Final in the Office action mailed 15 November 2005.

BACKGROUND

A review of the file history shows that this application was filed on 18 October 2002 under 35 U.S.C. 111 and contained claims 1-20. On 28 July 2005 the examiner mailed to applicants a restriction requirement in which the 20 claims were divided into six groups as follows.

I. Claims 1-5, drawn to a nucleic acid or variant, vector, and host cell requiring SEQ ID NO. 1-12, classified in class 536, subclass 23.1;
II. Claims 1 and 6-7, drawn to a protein, requiring SEQ ID NO. 1-12, classified in class 530, subclass 350;
III. Claims 8-10, and 13-14, drawn to a method for detection of a variant bartter polypeptide in a subject, requiring SEQ ID NOS 1-12, classified in class 435, subclass 7.2;
IV. Claims 8, 11-12, and 15, drawn to a method for detection of a variant bartter nucleic acid in a subject, requiring SEQ ID NOS.1-12, classified in class 435, subclass 6;

V. Claims 16-19, drawn to a kit comprising reagent for detecting variant bartter polypeptide, classified in claim 530, subclass 350; and
VI. Claims 16 and 20 drawn to a kit comprising a reagent for detecting a variant bartter nucleic acid, classified in class 536, subclass 22.1.

The examiner provided explanations regarding how the above inventions were independent and distinct. Additionally, the examiner required an election of a single SEQ ID NO. regardless of which of the above groups applicants was elected.

On 29 August 2005 applicants filed a response to the restriction requirement in which they elected with traverse Group I, claims 1-5, and SEQ ID NO. 2. Applicants cancelled the non-elected inventions of claims 6 - 20.

On 15 November 2005 the examiner mailed to applicants a first Office action on the merits in which the restriction requirement was made Final.

On 21 February 2006 applicants filed an amendment in response to the above Office action of 15 November 2005.

On 21 February 2006 applicants filed the instant Petition under 37 CFR 1.144 and 1.181 requesting Director review of the restriction requirement.

DISCUSSION

The application, file history and petition have been carefully reviewed. Applicants traverse the restriction for the following four reasons.

(1) The claimed nucleic acids of SEQ ID NOS. 1-8 and 10-12 are not independent and distinct.

Applicants point out that the presently claimed sequences are variants of the same nucleic acid and thus have a disclosed relationship. Furthermore, the invention comprises variants of a wild type BSND nucleic acid which was identified as the gene in Bartter's syndrome as well as variants implicated in disease states. All of the variants have similar clinical consequences. The claimed sequences are thus connected in design and operation. Applicants urge that the variants could not be more closely related without being the same compound.

Applicants' arguments have been fully considered and are deemed persuasive in-part. SEQ ID NOS. 2, 5, 10, and 12 are directed to the amino acid sequences of the wild type protein and three single amino acid mutants. The examiner searched SEQ ID NO. 2 and in this one search, the examiner effectively searched the other three sequences which differ from SEQ ID NO. 2 by a single amino acid, thus showing that they are 99.7% similar. The only hits were the instant application. However, the nucleic acid sequences of SEQ ID NOS. 1, 3, 4, 6, 7, 8, and 11 differ by more than a single base mutation. However, it is important to note that the examiner's search for the nucleic acid sequence

of SEQ ID NO. 1 did not yield any hits that were 99+% identical which one would have expected if SEQ ID NOS. 3, 4, 6, 7, 8, and 11 differed only by a single base mutation from SEQ ID NO. 1. The only conclusion one can reach by this is that the search of SEQ ID NO. 1 was not sufficiently similar to be inclusive of a search for SEQ ID NOS. 3, 4, 6, 7, 8, and 11. Even though the amino acid sequences of SEQ ID NOS. 2, 5, 10, and 12 differ by a single amino acid, they are still independent and distinct because a reference disclosing one of these sequences could not be used as prior art to render the other three sequences as anticipated or obvious. However, due to their demonstrated similarity they are examined together

(2) Applicants argue that restriction to one nucleic acid variant is contrary to the permissive guidelines of MPEP 803.04.

Applicants emphasize that MPEP 803.04 states that ". . . normally ten sequences constitute a reasonable number for examination purposes. Accordingly, in most cases, up to ten independent and distinct nucleotide sequences will be examined in a single application without restriction." Applicants' arguments have been fully considered but are not deemed persuasive."

As pointed out by the examiner, MPEP 803.04 permits up to ten independent and distinct sequences to be examined together. However, this is not a mandatory requirement but a "permissive guideline." While ten sequences may be examined whenever there is no undue search burden on the examiner, such is not the case in the instant application. The claims are directed to a full length wild type nucleic acid, three sequences with single base mutations and four other nucleic acids of much shorter length. These nucleic acids have different exact sequences and can be used to detect different single point mutations in a patient's DNA. Therefore, they have different structures and functions.

The examiner is guided in this restriction by MPEP 803.02.

> Since the decisions In re Weber, 580 F.2d 455, 198 USPQ 328 (CCPA 1978) and *In re Haas*, 580 F2d. 461, 198 USPQ334 (CCPA 1978), it is improper for the Office to refuse to examine that which applicants regard as their invention, unless the subject matter in a claim lacks unity of invention. *In re Harnisch*, 631 F.2d 716, 206 USPQ 300 (CCPA 1980); and *Ex parte Hozumi*, 3 USP!2d 1059 (Bd. Pat. App. & Int. 1984). Broadly, unity of invention exists where compounds included within a Markush group (I) share a common utility, and (2) share a substantial structural feature disclosed as being essential to that utility.

The instant nucleic acid sequences lack unity of invention because they each have different sequence structures and different utilities: to detect different point mutations.

(3) Applicants argue further that it would be reasonable to assume that there is no undue burden on the examiner to examine all nucleic acids sequences.

Applicants' argument has been fully considered but is not deemed persuasive. Applicants' assumption might have merit if only a text search was required for a complete search or if the sequences were so similar that that one search would be sufficient for all of the sequences. However, the applicant failed to provide a sequence alignment that would readily permit the examiner to see the relationships among these seven sequences. Because of the exponential growth of sequence data bases in recent years combined with the unrelenting burden on the Office computers dedicated to sequencing searching, there is an undue burden on both the examiner and the Office to perform more than one sequence search.

4) Applicants plead that examination of only one nucleic acid sequence presents a greater hardship on applicants than on the Office examining all seven nucleic acid sequences.

The Office regrets any hardship placed on the applicant by the current restriction practice. In the 28 years since the CCPA decided *In re Weber*, there has been an explosion in molecular biology, genomics, and proteonomics which has created an entirely unforeseeable search burden upon the Office. Even though initial sequence searching is done by computer, the examiner must review and analyze all of the references identified by the sequence search. Furthermore, a single experiment by an inventor can generate expression data on thousands of genes and gene products. The exponential increase in the size of the sequence data-bases created by the completion of the sequencing of the human (and other) genome has made the searching of more than a single sequence an undue burden on the Office.

In re Weber is correct that applicants do have the right to have their entire claimed invention examined so long as there exists Unity of Invention among the various distinct and independent inventions which are claimed. However, where Unity of Invention is lacking, it is proper to restrict the patentably distinct and independent inventions under 35 U.S.C. 121. This approach is guided by case law and reflects a balance between the rights of the instant inventor and the rights of other inventors to have their inventions examined in a timely manner.

DECISION

For all of the above reasons, the Petition is **GRANTED-IN-PART**.

The examiner's restriction requirement regarding election of a single sequence is modified with respect to examining SEQ ID NOS. 2, 5, 10, and 12 together since they have, in fact, been searched properly by the search for SEQ ID NO. 2. The remainder of the restriction requirement is maintained in the absence of evidence that they are similar to the examined sequences, such as a sequence alignment to document the relationships among these sequences. If sufficient similarity is demonstrated among the other

sequences, then the examiner will consider rejoinder these sequences and examination thereof.

Any request for reconsideration of this decision must be filed within two (2) months of the mailing date of this decision in order to be considered timely.

Should there be any questions regarding this decision, please contact Special Program Examiner, William R. Dixon, Jr. by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott
Director, Technology Center 1600
wrd/gk

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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KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Stephen H. Friend	: DECISION ON REQUEST FOR
Patent Number	: 7599799	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/273,489	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/18/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **125** 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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KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 05/18/2010

Applicant : Stephen H. Friend
Patent Number : 7599799
Issue Date : 10/06/2009
Application No : 10/273,489
Filed : 10/18/2002

: 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 **221** 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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PAULA EVANS/
C/O SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

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FEB 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Aaron T. Timperman	:	
Application No. 10/273,494	:	ON PETITION
Filed: October 18, 2002	:	
Attorney Docket No. 22085/2012	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 28, 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, December 28, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on March 29, 2006. The Notice of Abandonment was mailed July 25, 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 $750; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $510 extension of time fee submitted with the petition on March 28, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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 Terri Williams at (571) 272-2991.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: **Palmer & Dodge LLP**
111 Huntington Avenue
Boston, MA 02199

PTO/SB/22 (09-06)
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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.

OIPE
MAR 2 8 2007
TRADEMARK

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a) FY 2006 (Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)	Docket Number (Optional) 2012(222085)
Application Number 10/273,494-Conf. #2026	Filed October 18, 2002
For MICROFLUIDIC SYSTEM FOR PROTEOME ANALYSIS	
Art Unit 1744	Examiner W. H. Beisner

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

		Fee	Small Entity Fee	
☐	One month (37 CFR 1.17(a)(1))	$120	$60	$
☐	Two months (37 CFR 1.17(a)(2))	$450	$225	$
☒	Three months (37 CFR 1.17(a)(3))	$1020	$510	$ 510.00
☐	Four months (37 CFR 1.17(a)(4))	$1590	$795	$
☐	Five months (37 CFR 1.17(a)(5))	$2160	$1080	$

☒ Applicant claims small entity status. See 37 CFR 1.27.

☐ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☒ The Director has already been authorized to charge fees in this application to a Deposit Account.

☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 04-1105. I have enclosed a duplicate copy of this sheet.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).

☒ attorney or agent of record. Registration Number 29,325

☐ attorney or agent under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

Signature — Date: March 28, 2007

Ralph A. Loren — Typed or printed name — Telephone Number

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☐ Total of 1 forms are submitted.

Adjustment date: 02/04/2008 CKHLOK
03/30/2007 AWONDAF1 00000093 041105 10273494
02 FC:2253 510.00 CR

03/30/2007 AWONDAF1 00000093 041105 10273494
02 FC:2253 510.00 DA

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 02/01/08

2 Serial/Patent # 10/273,494

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time		03/28/07	$ 510.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 510.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 0 4 -- 1 1 0 5

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

The case was already abandoned when filed the extension.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Terri Williams TITLE: Paralegal Specialist

SIGNATURE: T. Williams PHONE: (571) 272-2991

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: CKhok DATE: 2/4/08

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

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Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON MA 02110

In re Application of
Travis Randall Parchman, et al.
Application No. 10/273,525
Filed: October 18, 2002
For: **RECOVERING TIMING FOR TELEVISION SERVICES**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed December 10, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition does not fulfill the requirement in item (6) in that the references are not fully discussed with the particularity required by 37 C.F.R. § 1.111(b). In item (5), Applicant is required to submit references deemed most closely related to the subject matter encompassed by the claims. In Applicant's petition, reference is made to art cited in an international search report as being most closely related. Although the search report may have found the references to only be related to the general state of the art, this does not release Applicant from the requirement of pointing out with particularity, how the claimed subject matter is patentable over the cited references.

For the above stated reasons, the petition is **DENIED**.

Should applicant desire reconsideration, he/she should supplement this petition by a declaration or statement under oath giving the information as outlined above. No further petition fee is required.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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MAY 6 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON MA 02110

In re Application of :
Travis Randall Parchman, et al. :
Application No. 10/273,525 :
Filed: October 18, 2002 :
For: **RECOVERING TIMING FOR TELEVISION SERVICES**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed December 10, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination, as supplemented on April 11, 2005.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 4

Mark A Wilson
Wilson & Ham
PMB: 348
2530 Berryessa Road
San Jose CA 95132

MAILED

APR 0 1 2003

Technology Center 2600

In re Application of :
Thaddeus Dudziak et al :
Application No. 10/273,536 :
Filed: October 18, 2002 :
For: **SYSTEM AND METHOD FOR SYNCHRONIZING TELECOM-RELATED CLOCKS ACROSS AN UNSYNCHRONIZED POINT-TO-POINT NETWORK CONNECTION** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on March 11, 2003.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Mark A. Wilson and Thomas H. Ham are removed from record.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Alloptic, Inc.
2301 Armstrong Street, Suite 101
Livermore, CA 94550

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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R. ALAN BURNETT
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

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SEP 20 2006

OFFICE OF PETITIONS

In re Application of	:	
Chang, et al.	:	
Application No. 10/273,538	:	DECISION ON PETITION
Filed: October 18, 2002	:	TO WITHDRAW
Attorney Docket No. 005306.P066	:	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 **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Blakely, Sokoloff, Taylor & Zafman, LLP has been revoked by the assignee of the patent application on September 11, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Sam Campbell
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

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WOMBLE CARLYLE SANDRIDGE
& RICE, PLLC
ATTN: PATENT DOCKETING
32ND FLOOR, P.O. BOX 7037
ATLANTA GA 30357-0037

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APR 24 2007
OFFICE OF PETITIONS

In re Application of :
Toshihiko Takeuchi et al :
Application No. 10/273,541 : ON PETITION
Filed: October 18, 2002 :
Attorney Docket No. MSB-7289 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 8, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b)[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

---

[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.

disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s)(1).

Petitioner states that the reply was previously filed on November 16, 2006. However, a review of the Office file records do not show that a reply was submitted on November 16, 2006.

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: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
ATTN: PATENT DOCKETING 32ND FLOOR
P.O. BOX 7037
ATLANTA GA 30357-0037

In re Application of	:	
Toshihiko Takeuchi et al	:	
Application No. 10/273,541	:	DECISION GRANTING PETITION
Filed: October 18, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. MSB-7289	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 18, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of April 21, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1644 for consideration of the Request for Continued Examination (RCE) filed May 18, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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AUG 14 2008

In re Application of	:	
Marchetto, Jarno	:	
Application No. 10/273,545	:	ON PETITION
Filed: October 18, 2002	:	
Attorney Docket No. 320528004US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before December 11, 2007, as required by the Notice of Allowance and Fee(s) Due mailed September 11, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on December 12, 2007. A Notice of Abandonment was mailed January 9, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

The application is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

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MAY 31 2005

Loren Donald Pearson
P.O. Box 402671
Miami Beach, FL 33140-2571

In re application of Harvey Blum Application No. 10/273,553 Filed: October 19, 2002 For: SYSTEM FOR REDUCING HEALTH-INSURANCE COSTS INCLUDING FRAUD BY PROVIDING MEDICAL HISTORIES	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on February 9, 2005 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 photocopy of Harvey Blum's driver license 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**.

Randolph A. Reese

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/dcg: 3/9/05

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Fleit Gibbons Gutman Bongini & Bianco P.L.
21355 E. Dixie Highway
Suite #115
Miami, FL 33180

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OFFICE OF PETITIONS

In re Application of Blum :
Application No. 10/273,553 : Decision on Petition
Filing Date: October 19, 2002 :
Attorney Docket No. 1011-A06-002 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 28, 2009, to revive the above-identified application.

The petition is **granted**.

The Board of Patent Appeals and Interferences ("Board") issued a decision on March 30, 2009, affirming the examiner's rejection of the claims. Petitioner did not timely seek review of the Board decision by the Court of Appeals for the Federal Circuit or the U.S. District Court for the District of Columbia.[1]

37 CFR 1.197(b)(1) states,

> Proceedings on an application are considered terminated by the dismissal of an appeal or the failure to timely file an appeal to the court or a civil action (§ 1.304) except:
> (i) Where claims stand allowed in an application; or
> (ii) Where the nature of the decision requires further action by the examiner.

In this case, no claims stand allowed and the Board decision did not require further action by the examiner. Therefore, proceedings on the application terminated Tuesday, June 2, 2009.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,

[1] The time period to seek review is two months unless a request for rehearing is timely filed or the Director extends the time period. *See* 37 CFR 1.304.

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and

(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted an amendment with a request for reconsideration and the petition fee of $810. Petitioner has also stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Technology Center Art Unit 3626 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

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OFFICE OF PETITIONS

In re Application of :
Lusky, Wajcer, Bendel, Bitran, Sommer, Shalvi, Reznic, Yagil, :
Senderovitz, and Haim
Application No. 10/273,563 : DECISION REFUSING STATUS
Filed: October 18, 2002 : UNDER 37 CFR 1.47(a)
Attorney Docket No. TI-33084 :
For: PARAMETER SELECTION IN A COMMUNICATION SYSTEM

This is a decision on the petition under 37 CFR 1.47(a) November 9, 2006.

The petition under 37 CFR 1.47(a) is **dismissed as moot.**

The above-identified application was filed on October 18, 2002, and was not accompanied by a properly executed oath or declaration. On February 19, 2003, a declaration under 37 CFR 1.63 was filed that was executed by all named joint inventors. On August 9, 2006, a Notice of Allowability was issued requiring a new declaration because, allegedly, all of the signatures of the joint inventors were not found on the declaration filed February 19, 2003. Petitioner now files the instant petition under 37 CFR 1.47(a), indicating that inventor Eli Haim's signature was not present on the declaration and that Mr. Haim cannot be located to sign the declaration.

A review of the application file and the declaration filed February 19, 2003, reveals that the signature block for inventor Haim was, in fact, executed. Further, all of the other joint inventors executed the declaration filed February 19, 2003. As all of the named inventors have executed the declaration, there is no relief that can be provided by the instant petition under 37 CFR 1.47(a). The petition is dismissed accordingly.

Further correspondence regarding this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents,
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 272-3222
Attn: Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Paper No.

CHARLES E. BAXLEY, P.C.
59 JOHN STREET, 5TH FLOOR
NEW YORK NY 10038

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OFFICE OF PETITIONS

In re Application of	:
Lin et al.	:
Application No. 10/273,602	: DECISION DISMISSING
Filed: 21 October, 2002	: PETITION
Attorney Docket No. 13286 B	:

This is a decision on the petition filed on 4 August, 2003, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of 18 October, 2002, instead of the presently accorded filing date of 21 October, 2002.

The petition is **dismissed**.

Petitioners allege that the application was deposited in first-class mailed service to the USPTO on 11 October, 2002. Petitioners state that the envelope containing the present application also contained application No. 10/272,814, which was accorded a filing date of 18 October, 2002. Accordingly, state petitioners, the present application must have been received in the USPTO on 18 October, 2002.

In support, petitioners have supplied a copy of their itemized return postcard for the present application, containing an Office-date stamp dated 21 October, 2002, and the above-identified application number. Petitioners also point to the itemized postcard for Application No. 10/272,814, which contains an Office-date stamp of 18 October, 2002.

Petitioners' arguments have been considered, but are not persuasive. The U.S. Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. A review of the papers originally filed reveals that no application papers for Application No. 10/273,602 were received on 18 October, 2002. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of

proving the allegation by a preponderance of the evidence. The fact that petitioners believe that the application was (or should have been) received in the Office on 18 October, 2002, because another application allegedly deposited in the USPTO via the same envelope was received on 18 October, 2002, is not more persuasive than the date the papers are shown to have been received in the official file.

Additionally, petitioners should note that the return receipt postcard serves as *prima facie* evidence of *receipt* in the USPTO of all the items listed thereon *on the date stamped thereon by the USPTO,* **not** the date petitioners believe that the application was or should have been received in the USPTO. Petitioners' postcard receipt shows a USPTO Office date stamp of 21 October, 2002. Therefore, the postcard receipt is *prima facie* evidence that the application was received on 21 October, 2002, not 18 October, 2002. At best, the record shows that applicants intended to file the papers in question in the USPTO by first-class mail on or before 18 October, 2002, but the evidence, unfortunately, does not show that the USPTO received the application on 18 October, 2002.

In summary, as 37 CFR 1.6 states that correspondence received in the USPTO is stamped with the date of receipt, applicants assumed the risk, in mailing the application by first-class mail, that if a delay occurred in the delivery of mail by the U.S. Postal Service, the application could not be accorded the desired filing date.

Had petitioners mailed the application papers by USPS Express Mail Post Office To Addressee service of the USPS, petitioners could have sought relief from their predicament under the provisions of 37 CFR 1.10(e), by *promptly* providing a copy of the patent-related documents, having affixed thereon the Express Mail label number, as well as a copy of the Express Mail mailing label showing a USPS "date-in" receipt date, and would have obtained as a filing date for any non-received correspondence the "date-in" given by the USPS on the Express Mail mailing label.

In summary, petitioners have not shown by a preponderance of the evidence that the application papers were received on 21 October, 2001. The petition is therefore <u>dismissed</u>.

As this petition is not due to an error on the part of the USPTO, the petition fee of $130.00 will not be refunded.

The address listed on the petition filed on 4 August, 2003, is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of 21 October, 2002, using the application papers filed on that date.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: CHARLES E. BAXLEY, ESQUIRE
HART, BAXLEY, DANIELS & HOLTON
90 JOHN STREET, THIRD FLOOR
NEW YORK, NY 10038

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SCHWABE, WILLIAMSON & WYATT, PC
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

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OFFICE OF PETITIONS

In re Application of	:	
Ole Bentz, et al.	:	
Application No. 10/273,626	:	DECISION ON PETITION
Filed: October 18, 2002	:	UNDER 37 CFR 1.313(c)(1)
Attorney Docket No. 118059-157706	:	

This is a decision on the petition under 37 CFR 1.313(c), filed May 7, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a request for continued examination in compliance with 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). The circumstances of the above-identified application do not fall within any of those exceptions.

For the reason stated above, the petition under 37 CFR 1.313(c) cannot be granted.

Petitioner is reminded that the filing of any renewed petition to withdraw from issue may not be recognized or effective if not received by the appropriate deciding official in time to act prior to

issuance. *Note* 37 CFR 1.313(d). It is recommended that the facsimile number listed below be used to file the renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: **(571) 273-0025**
Office of Petitions

Any questions regarding this decision concerning this matter may be directed to undersigned at (571) 272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

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SCHWABE, WILLIAMSON & WYATT, PC
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

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In re Application of	:	
Ole Bentz, et al.	:	
Application No. 10/273,626	:	DECISION GRANTING PETITION
Filed: October 18, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 118059-157706	:	

This is a decision on the renewed petition under 37 CFR 1.313(c)(2), filed May 16, 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 April 29, 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 2616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment previously filed May 7, 2008.

April M. Wise
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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Blakely, Sokoloff, Taylor & Zafman LLP
12400 Wilshire Blvd.
Seventh Floor
Los Angeles, CA 90025-1026

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In re Application of :

Daniel T. Chang et al. :
Application No. 10/273,632 :
Filed: October 18, 2002 :
Attorney Docket No. 005306.P068 :

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 3, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: **Sam Campbell**
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 2001
Austin, TX 78759

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J. E. MCTAGGART
SUITE 105
1860 EASTMAN AVENUE
VENTURA, CA 93003

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OFFICE OF PETITIONS

In re Application of	:	
Swarens et al.	:	
Application No. 10/273,635	:	ON PETITION
Filed: October 21, 2002	:	
Attorney Docket No. 1379	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 17, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the final Office action mailed October 1, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on January 2, 2005. A Notice of Abandonment was mailed May 18, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

Petitioner's credit card was inadvertently charged the RCE fee of $395.00 twice. Accordingly, $395.00 will be credited back to petitioner's credit card in due course.

This matter is being referred to Technology Center 2800 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SCHWABE, WILLIAMSON & WYATT P.C.
1420 5TH AVENUE, SUITE 3010
SEATTLE, WA 98101

Mail Date: 04/21/2010

Applicant	: Sridhar J. Devarapalli	: DECISION ON REQUEST FOR
Patent Number	: 7647427	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/273,657	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/18/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1467** 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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November 22, 2006

Patent No. : 7,098,212 B2
Ser. No. : 10/273658
Inventor(s) : Blumberg, et al.
Issued : August 29, 2006
Title : **PIPERAZINE DERIVATIVES**
Docket No. : PC11806A US

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent.

The alleged error in **column 104, line 13** is a change made in an Examiner's Amendment at time of allowance. Since applicant filed no objection prior to payment of the base issue fee, no correction is in order here under Rule 1.322.

In view of the foregoing, your request in this matter is denied.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext 110 or (703) 308-8309

PFIZER INC.
PATENT DEPARTMENT, MS8260-1611
EASTERN POINT ROAD
GROTON CT 06340

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
PO BOX 2938
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Rajesh Balay, et. al.	:	
Application No. 10/273,669	:	DECISION ON PETITION
Filed: October 16, 2002	:	TO WITHDRAW
Attorney Docket No. FORT-002200	:	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 8, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to SCHWEGMAN, LUNDBERG & WOESSNER, P.A. has been revoked by the assignee of the patent application on August 28, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Denise Williams at 571-272-8930.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: MICHAEL A DESANCTIS
HAMILTON DESANCTIS & CHA LLP
FINANCIAL PLAZA AT UNION SQUARE
225 UNION BOULEVARD, SUITE 305
LAKEWOOD CO 80228

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R. ALAN BURNETT
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

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OFFICE OF PETITIONS

In re Application of	:	
Chang, et al.	:	
Application No. 10/273,679	:	DECISION ON PETITION
Filed: October 18, 2002	:	TO WITHDRAW
Attorney Docket No. 005306.P067	:	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 **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Blakely, Sokoloff, Taylor & Zafman, LLP has been revoked by the assignee of the patent application on September 11, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Sam Campbell
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

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Fish and Richardson, P. C.
225 Franklin Street
Boston, MA 02110-2804

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JAN 21 2005

OFFICE OF PETITIONS

In re Patent No. 6,795,613	:	
Issue Date: September 21, 2004	:	
Application No. 10/273,683	:	ON PETITION
Filed: October 18, 2002	:	
Attorney Docket No. 13630-007001/P1P2002221US	:	

This is a decision on the petition filed October 18, 2004, which is being treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3223. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JOSEPH MAHONEY
MAYER, BROWN ROWE & MAW, LLP
P.O. BOX 2828
CHICAGO, IL 60690-2828

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DEC 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Fred L. Horowitz, et al.	:	
Application No. 10/273,711	:	DECISION ON PETITION
Filed: October 18, 2002	:	TO WITHDRAW
Attorney Docket No. 2097-039	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed August 7, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that Joseph Mahoney of Mayer, Brown, Rowe & Maw, 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MR. FRED L. HOROWITZ
AFFILIATED NETWORK SERVICES, LLC
20 S. CLARK
SUITE 1810
CHICAGO, IL 60603

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GEORGE B. LEAVELL
MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE CA 94085

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JUL 10 2009

OFFICE OF PETITIONS

In re Application of	:	
Leslie D. Kohn	:	
Application No. 10/273,718	:	DECISION ON PETITION
Filed: October 18, 2002	:	
Attorney Docket No. SUNMP128	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 19, 2009 to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned as a result of the petitioner's failure to file an appeal brief and fee required by 37 CFR 41.20 (b) within the time period provided in 37 CFR 41.37 (a)(1). As an appeal brief (and appeal brief fee) was not filed two (2) months form the Notice of Appeal, filed September 18, 2008, and no extension 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 1.197b). As no claim was allowed, the application became abandoned on November 19, 2008. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Appeal Brief and fee , (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. The petitioner deposit account 50-0805 was refunded $2350 for the 5 month extension of time overpayment.

Telephone inquiries concerning this decision should be directed to Newton Edwards at (571) 272-6052 or in his absence to the undersigned at (571) 272-7099.

This application is being referred to Technology Center AU 2136 for appropriate action by the Examiner in the normal course of business on the reply received.

David Bucci
Petitions Examiner
Office of Petitions

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THE DOW CHEMICAL COMPANY
INTELLECTUAL PROPERTY SECTION
P. O. BOX 1967
MIDLAND, MI 48641-1967

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APR 1 1 2006
OFFICE OF PETITIONS

In re Application of Williams, et al. Application No. 10/273,730 Filed: October 18, 2002 Attorney Docket No. DOW720/4-027US/67005	: : : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 22, 2005, to revive the above-identified application. The petition was recently forwarded to this office for consideration.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed November 18, 2004. A one (1) month extension of time having been obtained pursuant to the provisions of 37 CFR 1.136(a), the date of abandonment of this application is March 19, 2005. A Notice of Abandonment was mailed on November 1, 2005.

The file is being forwarded to Technology Center 1600 for review of the RCE and amendment, submitted November 22, 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
Office of the Deputy Commissioner
for Patent Examination Policy

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JOHN S. EGBERT
HARRISON & EGBERT
7TH FLOOR
412 MAIN STREET
HOUSTON TX 77002

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MAR 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Bruno Enea	:	
Application No. 10/273,740	:	DECISION GRANTING PETITION
Filed: October 18, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 1429-107	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 7, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of December 5, 2003, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2632.

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
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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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SEP 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Shunpei Yamazaki et al	:	
Application No. 10/273,755	:	ON PETITION
Filed: October 18, 2002	:	
Attorney Docket No. 07977-048002	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 2006, 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 December 17, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 18, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition 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

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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
Shunpei Yamazaki et al	:	
Application No. 10/273,755	:	ON PETITION
Filed: October 18, 2002	:	
Attorney Docket No. 07977-048002	:	

This is a decision on the petition, filed October 2, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 19, 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 2826 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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APR 0 9 2007
OFFICE OF PETITIONS

In re Application of	:
Shunpei Yamazaki et al	:
Application No. 10/273,755	: DECISION GRANTING PETITION
Filed: October 18, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 07977-048002	:

This is a decision on the petition, filed April 6, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 23, 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 2826 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.*

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LAW OFFICES OF ALBERT WAI-KIT CHAN, PLLC
141-07 20TH AVENUE
WORLD PLAZA, SUITE 604
WHITESTONE, NY 11357

Mail Date: 04/21/2010

Applicant	: Nai-Kong V. Cheung	: DECISION ON REQUEST FOR
Patent Number	: 7666424	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/273,762	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/17/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **795** 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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United States Patent and Trademark Office
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LAW OFFICES OF ALBERT WAI-KIT CHAN, PLLC
141-07 20TH AVENUE
WORLD PLAZA, SUITE 604
WHITESTONE, NY 11357

Mail Date: 05/18/2010

Applicant : Nai-Kong V. Cheung
Patent Number : 7666424
Issue Date : 02/23/2010
Application No : 10/273,762
Filed : 10/17/2002

: 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 **872** 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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GATES & COOPER LLP
HOWARD HUGHES CENTER
6701 CENTER DRIVE WEST, SUITE 1050
LOS ANGELES CA 90045

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of :
Holker, et al. :
Application No. 10/273,767 :
Filed: October 18, 2002 :
Attorney Docket No. 130.63-US-01 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 12, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of November 16, 2005. Applicants filed an amendment on February 13, 2006, which failed to place the application in *prima facie* condition for allowance, as was explained in the Advisory action, mailed February 28, 2006. On April 17, 2006 applicants filed a Notice of Appeal and a 2 month extension of time. Applicants filed a five month extension of time on November 17, 2006, but did not file a Notice of Appeal or other appropriate follow-up submission. Accordingly, the date of abandonment of this application November 18, 2006. A Notice of Abandonment was mailed on December 13, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $750.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,500.00; 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 Technology Center AU 1753 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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Paper No.

AT & T Corp.
P. O. Box 4110
MIDDLETOWN, NJ 07748

MAR 11 2005

In re Application of:
Patricia J. Boggs et al.
Serial No.: 10/273,793
Filed: October 18, 2002
Attorney Docket No.: 2002-0222

NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR § 1.313

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR § 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed October 20, 2004, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

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 T. C. Patel at (571) 272-2098.

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

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KILPATRICK STOCKTON LLP - 41305
CHARLES CALKINS
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of :
Mjalli, et al. :
Application No. 10/273,795 : NOTICE
Filed: October 18, 2002 :
Attorney Docket No. TTP 2001-15 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed March 26, 2007.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

BEYER WEAVER & THOMAS
P.O. BOX 778
BERKELEY, CA 94704-0778

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APR 16 2003

OFFICE OF PETITIONS

In re Application of	:	
Steven J. Visco et al	:	
Application No. 10/273,812	:	NOTICE
Filed: October 17, 2002	:	
Attorney Docket No. LBNLP009D1	:	

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 1741.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

1742

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DUNLAP, CODDING & ROGERS, P.C.
P.O. BOX 16370
OKLAHOMA CITY OK 73113

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JAN 30 2004

OFFICE OF PETITIONS

In re Application of
van Kempen
Application No. 10/273,820
Filed: October 18, 2002
Attorney Docket No. 8245.026
For: SYSTEM AND METHOD FOR ELECTROLYTIC PLATING

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(b)

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed November 12, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor, Hein van Kempen, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, Attorney Marc Alan Brockhaus explains that sole inventor van Kempen received the application papers and later refused to sign the declaration for the patent application. In addition, petitioner has shown that Viasystem Group, Inc. has a proprietary interest in the above-identified application with a verified translation of an employment agreement showing that the inventor had an obligation to assign any patent rights to Viasystem Group, Inc.. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 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.

After this decision is mailed, the above-identified application will be forwarded to Technology Center 1700 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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KOPPELSTRAAT 38
6088 ROGGEL
NETHERLANDS

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OFFICE OF PETITIONS

In re Application of
van Kempen
Application No. 10/273,820
Filed: October 18, 2002
Attorney Docket No. 8245.026
For: SYSTEM AND METHOD FOR
ELECTROLYTIC PLATING

LETTER

Dear Mr. van Kempen:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, 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: DUNLAP, CODDING & ROGERS, P.C.
P.O. BOX 16370
OKLAHOMA CITY OK 73113

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OFFICE OF PETITIONS

In re Application of	:	
Halbert et al.	:	
Application No. 10/273,834	:	DECISION ON PETITION
Filed: October 18, 2002	:	
Attorney Docket No. GJH-0224	:	

This is a decision on the petition under 37 CFR 1.137(a), filed March 4, 2005, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

This application became abandoned for failure to timely file a proper response to the final Office action mailed on February 11, 2004. On March 12, 2004, petitioner filed an amendment in reply to the final Office action. On April 21, 2004, the Office mailed an advisory action, informing petitioner that the amendment had been considered, but was not deemed to place the application in condition for allowance because it raised new issues that would require further consideration and/or search. In the apparent absence of a proper reply to the final Office action, the application became abandoned on May 12, 2004. A Notice of Abandonment was mailed on February 22, 2005.

In the present petition, petitioner states that petitioner submitted a timely and proper reply in the form of a Request for Continued Examination (RCE) with an authorization to charge the requisite fees. Accompanying the petition is a copy of the RCE Transmittal with a certificate of facsimile dated May 7, 2004. Additionally, petitioner submitted a copy of an Auto Reply Facsimile Transmission, indicating that the USPTO received the RCE Transmittal on May 7, 2004, at 4:59:36 PM.

> 37 CFR 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received by the United States Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and,

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

After reviewing the papers submitted on petition, the response is considered timely filed on May 7, 2004. Accordingly, the petition is **granted**. The Notice of Abandonment is hereby vacated. The application is restored to pending status in view of the fact that a response was submitted timely on May 7, 2004.

The $770.00 RCE fee will be charged to Deposit Account No. 05-1330, as authorized.

The matter is being referred to the Technology Center Art Unit 1764.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/9/06

TO SPE OF : ART UNIT 2853

SUBJECT : Request for Certificate of Correction for Appl. No.: 10273840 Patent No.: 6886915

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Valerie Jackson
Certificates of Correction Branch
703-308-9390 ext. 114

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

Comments: _____

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CST

11-27-06

In re application of	:	
Irene H. Lin	:	
Serial No. 10/273,860	:	DECISION ON
Filed: October 15, 2002	:	PETITION
For: MICROWAVEABLE ZIPPER BAG	:	

This is a decision on the PETITION TO ACCEPT MODEL OR EXHIBIT PURSUANT TO 37 CFR 1.91, filed October 19, 2006 (certificate of mailing). Petitioner has enclosed a sample of a microwaveable zipper bag constructed in accordance with the specification and claims of the present application.

A petition pursuant to 37 CFR 1.91 is required to include (a) the fee set forth in § 1.17(h); (b) an explanation of why entry of the model or exhibit in the file record is necessary to demonstrate patentability and (c) photographs that show multiple views of the material features of the model or exhibit and that substantially conform to the requirements of § 1.84. While conditions (a) and (c) have been met, petitioner has not met condition (b), that is, petitioner has not provided an explanation of why entry of the model or exhibit in the file record is necessary to demonstrate patentability.

The petition is **DISMISSED**.

JMStone

Jacqueline M. Stone
Director, Technology Center 1700
High Polymer Chemistry, Plastics,
Stock Materials and Compositions

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Paper No.

WITHERS & KEYS FOR BELL SOUTH
P. O. BOX 71355
MARIETTA GA 30007-1355

COPY MAILED

MAR 01 2007

OFFICE OF PETITIONS

In re Application of	:	
Easley et al.	:	DECISION ON
Application No. 10/273,861	:	PETITION
Filed: October 18, 2002	:	
Atty Docket No. 99366CON	:	

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT" filed December 21, 2006.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed December 14, 2004. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective March 15, 2005. The filing of the instant petition precedes the mailing of a courtesy Notice of Abandonment.

The instant petition was filed based on failure to receive the most recent Office action. A patent practitioner of the law firm of Withers & Keys certified that the Office Action was not received and that the file jacket has been searched. In support thereof, petitioner submits a copy of their docket. Petitioner notes that the correspondence for this matter appears to be addressed to a previous firm despite a power of attorney with change of correspondence address being filed in January of 2005.

Petitioner's arguments and evidence have been considered, but not found persuasive that withdrawal of the holding of abandonment is warranted. A review of the record reveals that the non-final Office action was mailed to the other law firm as their address was the correspondence address of record properly

in effect on the day of mailing. The Office action was mailed on December 14, 2004. The revocation of power of attorney and change of correspondence address was not filed until January 13, 2005.

In view thereof, abandonment for failure to timely respond to the non-final Office action mailed to the correspondence address of record was proper. Non-receipt of the Office action is properly attributed to the belated filing of a change of correspondence address. Under the circumstances, withdrawal of the holding of abandonment is not warranted.

The petition under § 1.181 is **DISMISSED**.

Any request for reconsideration must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are not permitted. See 1.181(f).

Alternatively, applicants may seek revival under the provisions of 37 CFR 1.137. Such a request should include a cover letter entitled "Petition under 37 C.F.R. § 1.137(a)" or "Petition under 37 C.F.R. § 1.137(b)," as appropriate.

Receipt of the revocation of power of attorney and change of correspondence address, with required 3.73(b) statement, is acknowledged and made of record.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No.

WITHERS & KEYS FOR BELL SOUTH
P. O. BOX 71355
MARIETTA GA 30007-1355

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OFFICE OF PETITIONS

In re Application of	:	
Easley et al.	:	DECISION ON
Application No. 10/273,861	:	PETITION
Filed: October 18, 2002	:	
Atty Docket No. 99366CON	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed April 16, 2007.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed December 14, 2004. A courtesy Notice of Abandonment was mailed on April 10, 2007. By decision mailed March 1, 2007, the PETITION TO WITHDRAW HOLDING OF ABANDONMENT filed December 21, 2006 was dismissed.

In response, applicants filed this petition based on unintentional delay. The petition includes the required reply in the form of an amendment, the statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

Technology Center AU 2614 has been advised of this decision. The application is, thereby, forwarded to the examiner for

consideration of the reply submitted on petition filed April 16, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MORGAN, LEWIS & BOCKIUS LLP
TWO PALO ALTO SQUARE
3000 EL CAMINO REAL, STE 700
PALO ALTO, CA 94306

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SEP 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Ostoich, et al.	:	
Application No. 10/273,873	:	DECISION ON PETITION
Filed: October 18, 2002	:	TO WITHDRAW
Attorney Docket No. 063004-5003-US	:	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 25, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morgan Lewis & Bockius, LLP has been revoked by the assignee of the patent application on February 22, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

There is an outstanding Office action mailed May 8, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Nan Wu, M.D., Ph.,D., J.D.
Morgan, Lewis & Bockius, LLP
One Market Street
Spear Street Tower
San Francisco CA 94105

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Scully Scott Murphy & Presser, PC
400 Garden City Plaza
Suite 300
Garden City, NY 11530

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SEP 20 2005

OFFICE OF PETITIONS

In re Patent No. 6,905,957	:	
Issue Date: June 14, 2005	:	
Application No. 10/273,883	:	ON PETITION
Filed: October 18, 2002	:	
Attorney Docket No. 15953	:	

This is a decision on the petition filed July 1,2005, which is being treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The 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 the undersigned at (571) 272-3223. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

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HOLLAND & HART LLP
60 E. South Temple, Suite 2000
P.O. Box 11583
Salt Lake City UT 84110

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DEC 15 2008

In re Patent No. 6,871,643	:	
Issued: 03/29/2005	:	
Application No. 10/273,911	:	NOTICE
Filed: 10/18/2002	:	
Attorney Docket No. 47332.0006	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed November 14, 2008.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

10273934

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 22106

Paper No.: _____

TO SPE OF : ART UNIT 3723

SUBJECT : Request for Certificate of Correction on Patent No.: 6951511B2

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

ROCHAUN JOHNSON
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 119

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 of claim 21 as set forth in the Certificate of Correction would introduce new meaning and/or scope of the claim.

~~George Nguyen~~
~~Primary Examiner~~

Joseph J. Hail, III
Supervisory Patent Examiner
Technology Center 3700

SPE

3723
Art Unit

PTOL-306 (REV. 7/03)

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GORDON STEWART
AGILENT TECHNOLOGIES, INC., LEGAL DEPT., DL429
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 7599
LOVELAND, CO 80537-0599

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OFFICE OF PETITIONS

In re Application of	:	
Carmack et al.	:	
Application No. 10/273,938	:	ON PETITION
Filed: October 17, 2002	:	
Attorney Docket No. 10020146-1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 27, 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.

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

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Joseph V. Gamerdell, Jr.
Perman & Green, LLP
425 Post Road
Fairfield, CT 06824

NOV 23 2004

In re Application of:
Joachim Moll
Serial Number: 10/273,950
Filed: 10/18/02
For: Delay Unit for Periodic Signals

DECISION ON PETITION
TO WITHDRAW THE HOLDING
OF ABANDONMENT

This is a decision on the petition filed on October 04, 2004 requesting the withdrawal of the holding of abandonment under 37 CFR 1.181. The subject application was held abandoned due to Applicant's failure to respond to the Office action mailed December 26, 2003. The Petitioner's request is based upon Applicant's assertion that said Office action was not received.

The Petition is ***granted***.

The petition has been considered and found to comply with the requirements set forth in section 711.03(C) of the Manual of Patent Examining Procedure. Petitioner's statement of non-receipt and the attached copy of the docketing records are sufficient evidence to establish that Applicant did not receive the last Office action. Therefore, the holding of abandonment is withdrawn. A copy of the last Office action will be sent to Applicant with a shortened statutory period for response set to run three months from the mailing date of said action.

James L. Dwyer, Director
Technology Center 2800
Physics, Optical Systems and Components and Electrical Engineering

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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110

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SEP 02 2008

In re Application of	:	
KUO, Chih Jen et al.	:	
Application No. 10/273,960	:	DECISION ON PETITION
Filed: October 18, 2002	:	TO WITHDRAW
Attorney Docket No. **36000-0018**	:	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 02, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, **(sale of assets to another corporation)**, does not meet any the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the

assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **O2MICRO, INC.**
3118 PATRICK HENRY DRIVE
SANTA CLARA, CA 95054

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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110

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In re Application of	:	
KUO, Chih Jen et al.	:	
Application No. 10/273,960	:	DECISION ON PETITION
Filed: October 18, 2002	:	TO WITHDRAW
Attorney Docket No. **36000-0018**	:	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 28, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Hickman Palermo Truong & Becker, LLP has been revoked by the assignee of the patent application on November 12, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **O2MICRO INC**
C/O MURABITO, HAO & BARNES LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE, CA 95113

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LAW OFFICE OF KAREN DANA OSTER, LLC
PMB 506
16869 SW 65TH AVENUE
LAKE OSWEGO OR 97035

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JUL 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Eric Saylors, et al.	:	
Application No. 10/273,961	:	DECISION ON PETITION
Filed: October 16, 2002	:	TO WITHDRAW
Attorney Docket No. DWA:SelfAdmin	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed February 7, 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 Karen Dana Oster on behalf of all attorneys of record who are associated with customer No. 26790.

All attorneys/agents associated with the Customer Number 26790 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must

have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on February 7, 2007 does not include a proper 3.73(b) statement or the reel and frame number of the assignment.

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: ERIC SAYLORS
17211 BLUE HERON ROAD
LAKE OSWEGO, OR 97034

cc: MR. JAMES N. HANSEN
BOARD MEMBER
DIGITAL WORLD ACCESS, INC.
5916 SUNBROOK DRIVE
LAKE OSWEGO, OR 97035

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GRAYBEAL, JACKSON, HALEY LLP
155 - 108TH AVENUE NE
SUITE 350
BELLEVUE, WA 98004-5973

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JUL 16 2007

OFFICE OF PETITIONS

In re Application of :
Eric Saylors, et al. :
Application No. 10/273,961 :
Filed: October 16, 2002 :
Attorney Docket No. 2523-002-03 :

DECISION ON REQUEST FOR REVOCATION OF POWER OF ATTORNEY

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a) filed February 7, 2007.

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because the signatures Eric Saylors and Maurice J. Boardman are missing.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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AUG 06 2003

OFFICE OF PETITIONS

Amy Natasha Slivocka
Suite 3000
1717 Main Street
Dallas, TX 75201

In re Application of:
Robert Albert Lynch and
James Burkhart
Application No. 10/273,964
Filed: October 19, 2002
Title of Invention: KIT AND METHOD FOR CONVERTING A DIESEL ENGINE TO NATURAL GAS ENGINE

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to correspondence received by this Office via facsimile on May 19, 2003, which is being treated as a Request for Reconsideration of Petition Under 37 C.F.R. 1.47(a), to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, James Burkhart, refuses to sign the declaration.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the 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 continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

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AUG 06 2003

OFFICE OF PETITIONS

Mr. James Burkhart
410 Highridge Lane
McKinney, TX 75069

In re Application of: :
Robert Albert Lynch and James Burkhart :
Application No. 10/273,964 : LETTER
Filed: October 19, 2002 :
Title of Invention: KIT AND METHOD :
FOR CONVERTING A DIESAL ENGINE :
TO NATURAL GAS ENGINE :

Dear Mr. Burkhart:

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) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: AMY NATASHA SLIVOCKA
SUITE 300
1717 MAIN STREET
DALLAS, TX 75201

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 5

CHRISTIE, PARKER & HALE, LLP
350 WEST COLORADO BOULEVARD
SUITE 500
PASADENA CA 91105

MAILED

FEB 2 6 2003

Technology Center 2600

In re Application of:
Paul Yurt et al
Application No. 10/273,967
Filed: October 17, 2002
For: **AUDIO AND VIDEO TRANSMISSION AND RECEIVING SYSTEM**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition filed October 17, 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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 5

THE SCRIPPS RESEARCH INSTITUTE
OFFICE OF PATENT COUNSEL, TPC-8
10550 NORTH TORREY PINES ROAD
LA JOLLA CA 92037

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OFFICE OF PETITIONS

In re Application of
Kang et al.
Application No. 10/273,973
Filed: October 18, 2002
Attorney Docket No. TSRI 238.2 C1

DECISION GRANTING PETITION

This is a decision on the petition filed on January 27, 2003, requesting that the above-identified application be accorded a filing date of October 18, 2002.

On October 18, 2002, applicants deposited the above-identified application. However, on November 22, 2002, the Office mailed a "Notice Of Incomplete Application," requiring, inter alia, drawings and stating that the filing date would be the date of receipt of the omitted drawings. In response, applicants filed, inter alia, the present petition, a second preliminary amendment, a copy of the drawings, which were filed in the parent application. Applicants acknowledge that the application was submitted without drawings.

A search of the official file reveals that on October 18, 2002, applicants submitted a "Utility Patent Application Transmittal," which stated that the application is a continuation of prior application No. 09/729,597 and that the entire disclosure from the prior application is incorporated by reference.

Section 201.06(c) of the Manual for Patent Examining Procedure permits the entering of a portion of the prior application into a continuation or divisional application when the portion of the prior application was inadvertently omitted from the continuation or divisional application. Based on applicants' representation that the papers supplied with the petition constitute a copy of the prior application, and the incorporation by reference statement appearing in Transmittal deposited on October 18, 2002, it is appropriate, on petition, to accord the application the requested filing date.

The petition is **granted**.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of October 18, 2002, using the drawing sheets submitted with the present petition.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Epstein Drangel Bazerman & James, LLP
60 East 42nd Street
Suite 820
New York, NY 10165

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JAN 25 2006

OFFICE OF PETITIONS

In re Application of	:	
Grabhoff et al.	:	DECISION ON PETITION
Application No. 10/273,976	:	UNDER 37 CFR 1.137(b)
Filed: October 18, 2002	:	
Attorney Docket No. 1238-03	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 18, 2005, to revive the above-identified application.

This application became abandoned for failure to reply timely to the Notice Regarding Drawings mailed on August 12, 2005, which set a two-month period to correct drawing informalities. Accordingly, this application became abandoned on October 13, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of corrected drawings, paid the petition fee, and made the proper statement of unintentional delay.

The petition is **granted.**

This matter is being referred to the Office of Patent Publications.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Notice of Draftsperson's Patent Drawing Review

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS, VA 20165

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APR 19 2005

OFFICE OF PETITIONS

In re Application of :
Yasuhiko Takemura :
Application No. 10/273,999 : ON PETITION
Filed: October 21, 2002 :
Attorney Docket No. 0756-7057 :

This is a decision on the petition, filed April 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 March 22, 2005, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated March 21, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2822 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : April 18, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Yasuhiko Takemura
Application No. : 10/273,999
Filed : October 21, 2002

The above-identified application has been assigned Patent No. 6,888,163 and an issue date of May 3, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 3, 2005:

> "All reference to Patent No. 6,888,163 to YASUHIKO TAKEMURA of JAPAN for SEMICONDUCTOR DEVICE AND METHOD FOR MANUFACTURING THE SAME appearing in the Official Gazette of May 3, 2005, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS, VA 20165

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OFFICE OF PETITIONS

In re Application of
Yasuhiko Takemura
Application No. 10/273,999
Filed: October 21, 2002
Attorney Docket No. 0756-7057

ON PETITION

This is a decision on the petition, filed April 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 March 22, 2005, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated March 21, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2822 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

SCHWEITZER CORNMAN GROSS &
BONDELL LLP
292 MADISON AVENUE – 19TH FLOOR
NEW YORK, NY 10017

In re Application of :
Thomas Whymark :
Application No. 10/274,018 :
Filed: October 18, 2002 :
For: MULTI-MARKET BROADCAST TRACKING, :
MANAGEMENT AND REPORTING METHOD AND :
SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed September 7, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Doris To
Special Program Examiner
Technology Center 2600
Communications

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

Hanley, Flight & Zimmerman, LLC
150 S. Wacker Dr. Suite 2100
Chicago, IL 60606

Mail Date: 05/12/2010

Applicant	: Thomas J. Whymark	: DECISION ON REQUEST FOR
Patent Number	: 7624409	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/274,018	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/18/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1281** 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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AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH FL 33402-3188

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APR 06 2005

OFFICE OF PETITIONS

In re Application of
Burckhard Becker et al. :
Application No. 10/274,020 : ON PETITION
Filed: October 18, 2002 :
Attorney Docket No: 200-51 :

This is a decision on the petition filed February 15, 2005, to withdraw the holding of abandonment under 37 CFR 1.181, or in the alternative, to revive the above identified application under 37 CFR 1.137(b). [1]

The petition to withdraw the holding of abandonment is **GRANTED**.
The petition to revive under 37 CFR 1.137(b) is **DISMISSED** as involving moot issues.

The application was held abandoned on August 26, 2004, for failure to file a timely response to the non-Final Office Action mailed May 25, 2004. The office action set a three month shortened statutory period. Accordingly, a Notice of Abandonment was mailed on February 11, 2005.

In the petition to withdraw the holding of abandonment under 37 CFR 1.181, petitioner asserts that a response to the non-Final Office Action had been timely filed by facsimile transmission and has submitted a copy of the reply said to have sent but not received in the U.S. Patent and Trademark Office. The document contains a certificate of transmission pursuant to 37 CFR 1.8, dated August 25, 2004, and signed by petitioner's counsel, Mark D. Passler.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Accordingly, the holding of abandonment is withdrawn. In view thereof, the petition under 37 CFR 1.137(b) is moot. The petition fee is unnecessary and therefore will not be charged to petitioner's deposit account.

This matter is being referred to Technology Center 2841 for consideration of the amendment filed August 25, 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

UNITED STATES 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 : 4/9/08

Patent No. : 6776376 B2
Application No : 10/274024
Inventor(s) : Collins
Issued : Aug. 17, 2004
Title : **FLIGHT CONTROL SURFACE ACTUATION SYSTEM**
Docket No. : 67010-040

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).

In view of the foregoing, your request is hereby 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 Mary F. Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM MI 48009

MFD/eme

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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM MI 48009

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JUN 25 2009

OFFICE OF PETITIONS

In re Application of	:	
Andrew J. Collins	:	
Application No. 10/274024	:	DECISION
Filing or 371(c) Date: 10/18/2002	:	ON PETITION
Patent No.: 6,776,376	:	
Issue Date: 08/17/2004	:	
Attorney Docket Number:	:	
67,010-040; H2655-CL	:	

This is a decision on the correspondence entitled "Petition to Correct Assignee Under 37 CFR 3.81(b)" filed February 19, 2009, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The Petition is **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Petitioner files the present petition and requests correction of the assignee, to Hamilton Sundstrand Corporation. In support of the petition, Petitioner provides that the assignment was originally submitted for recordation on October 18, 2002, and then corrected on January 16, 2008.

A review of the Assignment submitted for recordation on October 18, 2002 reveals that the name of the assignee thereon is Hamilton Sundstrand. A review of the patent reveals that the patent issued on August 17, 2004, and the name of the assignee thereon was correctly listed as Hamilton Sundstrand.

Applicable Law, Rules and MPEP

37 CFR 3.81(b) provides:

> After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17 (i) of this chapter. (Emphasis supplied).

Analysis and conclusion

The Rule provides for correction of the patent to the name of the assignee where the assignment was submitted for recordation before issuance of the patent. Because the patent correctly issued in the name of the assignee of record at the time the patent issued, no correction of the patent is available under the Rule.

The petition is dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CARLSON, GASKEY & OLDS, P.C.
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SUITE 350
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OFFICE OF PETITIONS

In re Application of	:	
Andrew J. Collins	:	
Application No. 10/274024	:	DECISION
Filing or 371(c) Date: 10/18/2002	:	ON PETITION
Patent No.: 6,776,376	:	
Issue Date: 08/17/2004	:	
Attorney Docket Number:	:	
67,010-040; H2655-CL	:	

This is a decision on the "Request for Reconsideration of Petition Under 37 CFR 3.81(b)," filed July 7, 2009, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The Petition is **granted**.

Petitioner files the present petition and requests correction of the assignee, to Hamilton Sundstrand, One Hamilton Road, Windsor Locks, CT 06096-1010. The petition was accompanied by a certificate of correction as required by 3.81(b), and the fee submitted with the present petition. Further, Office assignment records reflect that Hamilton Sundstrand, One Hamilton Road, Windsor Locks, CT 06096-1010, is the assignee of record. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DENNISON, SCHULTZ, DOUGHERTY & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA VA 22314

COPY MAILED

MAR 0 9 2006

OFFICE OF PETITIONS

In re Application of :
Yocum :
Application No. 10/274,047 : ON PETITION
Filed: October 21, 2002 :
Title: Carton Structure and Sheet Material :
Product

This is a decision on the "Request For Clarification" which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed May 5, 2005.

The petition to withdraw the holding of abandonment is **Dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action which was mailed on December 31, 2003. 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 April 1, 2004. A Notice of Abandonment was mailed on October 19, 2004.

Petitioner contends a reply to the December 31, 2003 non-final Office Action and a two month extension of time request were submitted on May 28, 2004. Petitioner has submitted a copy of the reply purportedly filed on May 28, 2004.

Petitioner's argument has been considered, but deemed unpersuasive. A review of the record shows that the amendment and the request for two month extension of time were submitted on November 15, 2004. To the extent petitioner contends the response filed on November 15, 2004 was a copy of the original reply submitted on May 28,

2004, the Office is not in receipt of a certificate of mailing or transmission which contains the May 28, 2004 (or earlier) date pursuant to 37 CFR 1.8. Further review of the record shows that neither a post card receipt nor express mail label were supplied as evidence to establish the amendment and the request for extension of time were submitted prior to the maximum extendable time period expired on July 1, 2004. See 37 CFR 1.10 and MPEP 503.

Any evidence petitioner can provide to establish an amendment and two month extension of time request (with accompanying fee) were submitted on May 28, 2004 should be provided in a renewed petition.

However if petitioner cannot establish the reply to the non-final Office Action was received prior to the expiration period, petitioner may wish to file a petition to revive under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DENNISON, SCHULTZ, DOUGHERTY & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA VA 22314

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APR 13 2006

OFFICE OF PETITIONS

In re Application of :
Yocum :
Application No. 10/274,047 : ON PETITION
Filed: October 21, 2002 :
Title: Carton Structure and Sheet Material :
Product

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181 filed on March 17, 2006.

The petition to withdraw the holding of abandonment is **GRANTED**.

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action which was mailed on December 31, 2003. 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 April 1, 2004. A Notice of Abandonment was mailed on October 19, 2004.

Petitioner contends a reply to the December 31, 2003 non-final Office Action and a two month extension of time request were submitted on May 28, 2004. Petitioner submitted a copy of the response and request for two month extension of time on November 15, 2004. On renewed petition, petitioner has provided a stamped post card receipt which list a reply to the office action, drawings, and a request of two month extension of time. The post card receipt is prima facie evidence that a reply was timely submitted on May 28, 2004.

The response submitted on May 28, 2004 has not been located in the Office. However, in view of the evidence submitted, the response is deemed timely. The copy of the amendment submitted on November 15, 2005 has been located.

A review of the record shows that there is a duplicate charge for the two month

extension of time fee (May 28, 2004 and November 15, 2004). Petitioner is entitled to refund of $430.00. Petitioner may request a refund by writing to the Finance Office, Refund Section. A copy of this decision to should accompany any request for refund

The holding of abandonment is withdrawn.

The application file is being forwarded to the Technology Center 3700 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant

Petitions Attorney

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

STOLL, KEENON & PARK, LLP
300 W. VINE STREET, SUITE 2100
LEXINGTON, KY 40507

In re Application of :
James C. Pendergrass :
Application No. 10/274,058 : ON PETITION
Filed: October 18, 2002 :
Attorney Docket No. 103720-112911

This is a decision on the petition under 37 CFR 1.137(a), filed May 26, 2006, to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.137(b) also filed May 26, 2006.

The petition under 37 CFR 1.137(a) is **GRANTED.**

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT.**

The above-identified application became abandoned for failure to reply to election/restriction requirement mailed October 4, 2005, which set a shortened statutory period for reply of one (1) month from its mailing date. It is noted that the examiner requested an oral election in the Office action. The examiner indicated that no response was received within the allowable period. The application was, therefore, abandoned on November 5, 2005. A Notice of Abandonment was mailed on April 19, 2006.

Petitioner has established that the alleged delay in responding to the election/restriction requirement was unavoidable.

As the application is being revived pursuant to 37 CFR 1.137(a), there is no remedy that can be garnered by the petition under 37 CFR 1.137(b). The petition under 37 CFR 1.137(b) is dismissed, accordingly. The petition fee of $750.00 will be refunded, in due course.

The file is now being forwarded to Technology Center 1700, GAU 1743 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
P.O. Box 1450
Alexandria, VA 22313-1450
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PATENT COUNSEL
APPLIED MATERIALS, INC.
LEGAL AFFAIRS DEPARTMENT
P. O. BOX 450A
SANTA CLARA, CA 95052

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OFFICE OF PETITIONS

In re Application of :
Michael Barnes, et al. :
Application No. 10/274,093 :
Filed: October 17, 2002 :
Attorney Docket No. AMAT/6844/ETCH/CHMBR/JB :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 30, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 24, 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 May 25, 2005.

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 petition satisfies the requirement of 37 CFR 1.137 (b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed November 30, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 1700, Art Unit 1751 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

cc: Keith M. Tackett
Patterson & Sheridan, LLP
3040 Post Oak Boulevard, Suite 1500
Houston, TX 77058

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/19/04

TO SPE OF : ART UNIT 1752

SUBJECT : Request for Certificate of Correction for Appl. No.: 10274118 Patent No.: 6773874

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**.

Monique

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.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Cynthia Hamilton

SPE

1752

Art Unit

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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 13

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

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SEP 1 6 2004

OFFICE OF PETITIONS

In re Application of :
Paul Lapstun et al. :
Application No. 10/274,119 : ON PETITION
Filed: October 21, 2002 :
Attorney Docket No. UP07US :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed August 26, 2004, 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 October 3, 2003. A response was filed December 30, 2003 but by Advisory Action of April 13, 2004, petitioner was advised that the response did not place the application in condition for allowance. This application became abandoned on January 6, 2004. Accordingly, a Notice of Abandonment was mailed July 23, 2004.

---

[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)).

Petitioner has submitted a Request for Continued Examination (RCE) and indicated that the previously submitted amendment serves as the submission required under 37 CFR 1.114. While the RCE cover sheet indicates such, the statement of unintentional delay indicates that an amendment and petition for extension of time were included with the petition. The amendment does not appear to be a part of the papers filed August 26, 2004 and if it is petitioner's intention that an amendment other than the one previously submitted should be considered, petitioner needs to submit it as soon as possible.

It should also be noted that, 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 $770.00 extension of time fee submitted with the petition on August 26, 2004, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be refunded.

The application is being forwarded to Technology Center 3751 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

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OFFICE OF PETITIONS

In re Application of	:	
Shimizu et al.	:	
Application No. 10/274,126	:	DECISION GRANTING
Filed: October 21, 2002	:	PETITION
Attorney Docket No. 7390/80035	:	

This is a decision on the petition filed December 9, 2002, to establish that page 46 of the specification was part of the originally filed application.

On October 21, 2002, the application was filed.

On November 21, 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 21, 2002, and advising applicants that page 46 of the specification appeared to have been omitted.

In response, the present petition was filed alleging that page 46 was deposited on October 21, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "47-page Specification (including claims & Abstract)" on October 21, 2002.[1] Petitioner has also submitted a copy of the missing documentation- page 46 of the specification.

Upon review of the record, page 46 of the specification deposited on October 21, 2002, has not been located. However, the evidence is convincing that the application papers deposited on October 21, 2002, included page 46, and that page 46 was subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of page 46 of the specification submitted with the petition will be used for examination purposes.

The petition fee will be credited to petitioner's deposit account.

The Notice mailed November 21, 2002, was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 21, 2002, using the application papers filed on October 21, 2002, and the copy of page 46 of the specification filed on December 9, 2002.

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

LEONG C. LEI
PMB# 1008, 1867 YGNACIO VALLEY ROAD
WALNUT CREEK CA 94598

In re Application of	:	
James Y.M. Pan	:	
Application No. 10/274,140	:	DECISION GRANTING PETITION
Filed: October 21, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. FP8113	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 21, 2005, and supplemented on July 25, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment/election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement of April 19, 2004, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 3616.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 18 2006

Leong C. LEI
PMB #1008, 1867 Ygnacio Valley Road
Walnut Creek, CA 94598

In re Application of	:	
James Y. M. Pan	:	DECISION ON PETITION
Application No. 10/274,140	:	TO WITHDRAW THE
Filed: October 21, 2002	:	HOLDING OF
For: INFLATABLE HEAD RESTRAINT	:	ABANDONMENT

This is in response to applicant's petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office (USPTO) on January 31, 2005.

The petition is **DISMISSED.**

A review of the file records reveals that the application was held abandoned for failure to timely file a reply to the non-final Office action mailed April 19, 2004. A Notice to that effect was mailed December 9, 2004.

Applicant states that the Office action mailed April 19, 2004 was not received.

There is a strong presumption that mail properly addressed and delivered to the United States Postal Service was in fact delivered to the addressee. An allegation that an Office communication was not received may be considered in a formal petition for the withdrawal of the holding of abandonment, in accordance with *Delgar Inc. v. Schuyler*, 172 USPQ 513. However, the presumption that the Office communication was delivered to applicant may be overcome by a showing that the communication was not, in fact, received.

For a pro se applicant 1156 O.G. 53 does not apply, therefore (since this application was pro se at the time of abandonment) statements of non-receipt should include a statement by the applicant, and by anyone else at applicant's correspondence address, who would have handled the Office communication, and include any available documentary evidence of mail received, covering a reasonable period after the date of the Office communication, to show non-receipt of the communication in question. Copies of records on which the receipt date of the Office communication would have been entered had it been received,

(*e.g.*, a copy of the outside of the file maintained by applicant), are required if available. Also, a showing of any docket records *or other method* which would serve as a reminder of a response due date should be submitted. Whatever method applicant uses as a reminder, and submits in response to this decision should be adequately explained. Also, a statement is required that a search of the file maintained by applicant, or any other location where correspondence from the USPTO is kept, failed to find a copy of the Office communication in question. Finally, applicant must state that he was in fact at the correspondence address of record or that the correspondence address was a functioning one at the time the Office action would have been received.

Any such exhibits should be submitted as part of statement(s) showing that no Office communication was ever received.

Applicant's petition of January 31, 2005 does not include any statement by the applicant that the office action was not received, nor any statement that the applicant was at the correspondence address at the time the office action would have been received. A showing has been made of a docket record, however, no records are provide to show any method that serves as a reminder of a response due date.

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" and should be mailed to the Commissioner for Patents, P.O. Box 1450, Technology Center 3600, Alexandria, VA 22313-1450.

for

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6619

RAR/js: 8/9/05

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, DC 20231
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Paper No. 4

DONALD V. TOMKINS
C/O MILLER THOMSON LLP
2700, 10155 - 102 STREET
EDMONTON AB T5J 4G8 CA CANADA

MAILED

APR 1 6 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Derek J. Kolybaba
Application No. 10/274,172
Filed: October 21, 2002
For: COMPUTER MOUSE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on March 13, 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 attorneys associated with Customer No. 31209 are granted the request for withdraw of attorney/agent. All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: Revolutionary Alternative Technologies Inc.
c/o Mr. Kayne Kempton
Suite 79078, 70 – 1020 Sherwood Dr.
Sherwood Park, Alberta T8A 2G4

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Leong C. Lei
PMB #1008
1867 Ygnacio Valley Road
Walnut Creek, CA 94598

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NOV 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Hsin-Mao Hsieh	:	DECISION DISMISSING PETITION
Application No. 10/274,205	:	UNDER 37 CFR 1.181
Filed: October 21, 2002	:	
Attorney Docket No. FP8891	:	

This is a decision on the petition under 37 CFR 1.181, filed October 10, 2004, to withdraw the holding of abandonment.

On December 11, 2003, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period for reply. In the apparent absence of a timely filed response, the application became abandoned on March 12, 2004. On August 11, 2004, a Notice of Abandonment was mailed.

In the present petition, the practitioner, Leong C. Lei, requested that the Office withdraw the holding of abandonment on the basis that the Office action forming the basis of the abandonment was not received. Specifically, the practitioner stated that the Notice of Allowance was not received. Moreover, the practitioner asserted that a search of the file jacket and the docket records in the office indicated that the Notice of Allowance was not received. A copy of the docket record accompanies the petition.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

First, the Office notes that the USPTO has not mail a Notice of Allowance in the above-identified application to date. Rather, the application became abandoned for petitioner's failure to file a timely reply to a **nonfinal Office action**. Accordingly, in the present petition, the practitioner attested to the search for, as well as the non-receipt of, the wrong communication from the USPTO.

Second, a review of the record indicates no irregularity in the mailing of the nonfinal Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record as it existed on December 11, 2003. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to

the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See MPEP 711.03(c). For example, if a three-month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. The showing 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).

In the present case, during the relevant period, the USPTO mailed all Office communications, including the nonfinal Office action, directly to the inventor, Hsin-Mao Hsieh, at PO BOX 82-144, Taipei, Taiwan. The inventor did not give power of attorney to Leong C. Lei or change the correspondence address to PMB #1008, 1867 Ygnacio Valley Road, Walnut Creek, CA 94598, until March 31, 2005. Presumably, Hsin-Mao Hsieh would have been responsible for docketing all Office communication from the USPTO. Accordingly, petitioner must submit a copy of Hsin-Mao Hsieh's files and docket record for the relevant period, showing all replies docketed for a date three months from the mail date of the non-received nonfinal Office action as documentary proof of non-receipt of the nonfinal Office action. It is unclear who created the docket record that accompanies the petition. Additionally, Hsin-Mao Hsieh must make a statement, attesting to the fact that a search of his files and docket record indicates that he did not receive the nonfinal Office action.

Third, as previously stated, the practitioner asserted that a search of the file jacket and the docket records in the "Office" indicated that the "Notice of Allowance" was not received. It is unclear from practitioner's statement at what "Office" he conducted his search due to the fact that the correspondence was being mailed to the inventor at that time. If the inventor provided the practitioner with all of the correspondence from the USPTO, as well as his docket records, the practitioner must show that he did not lose the nonfinal Office action after it was received by the inventor, and thereafter forwarded to the practitioner. As petitioner has not presented the required showing, the petition to withdraw the holding of abandonment is dismissed.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment." Extensions of time are permitted under 37 CFR 1.136(a).

ALTERNATIVE VENUE

Petitioner may wish to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition.

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 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), **an additional** $1,500.00 for a large entity and $750.00 for a small entity;

(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.

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 concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 3

MAILED

FEB 13 2003

Technology Center 2600

CHRISTIE, PARKER & HALE, LLP
350 WEST COLORADO BOULEVARD
SUITE 500
PASADENA CA 91105

In re Application of:
Paul Yurt et al
Application No. 10/274,223
Filed: October 17, 2002
For: **AUDIO AND VIDEO TRANSMISSION AND RECEIVING SYSTEM**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition filed October 17, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NXP, B.V.
NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

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JUN 27 2007
OFFICE OF PETITIONS

In re Application of	:	
Gelke et al.	:	
Application No. 10/274,237	:	ON PETITION
Filed: October 18, 2002	:	
Attorney Docket No. CH01 0024 US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 14, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Notice of Appeal; (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 Notice of Appeal filed May 14, 2007, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief accompanied by the fee required by law, runs from the date of this decision.

This matter is being referred to Technology Center 2600 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 3

MAILED

FEB 1 3 2003

Technology Center 2600

CHRISTIE, PARKER & HALE, LLP
350 WEST COLORADO BOULEVARD
SUITE 500
PASADENA CA 91105

In re Application of:
Paul Yurt et al
Application No. 10/274,242
Filed: October 17, 2002
For: **AUDIO AND VIDEO TRANSMISSION AND RECEIVING SYSTEM**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition filed October 17, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

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JUL 25 2008

In re Application of	:	
Louis SHAFFER	:	
Application No. 10/274,251	:	DECISION ON PETITION
Filed: October 17, 2002	:	TO WITHDRAW
Attorney Docket No. PA2461US	:	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 30, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by V. Randall Gard on behalf of all the practitioners of record who are associated with Customer Number 22830.

All practitioners associated with the Customer Number 22830 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the 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: LOUIS SHAFFER
53 PLACE DE LA FAITA
38920 CROLLES
FRANCE

LAM RESEARCH CORPORATION
4650 CUSHING PARKWAY
FREMONT, CA 94538

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 5

HUDAK, SHUNK & FARINE CO. LPA
SUITE 307
2020 FRONT STREET
CUYAHOGA FALLS OH 44221

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OFFICE OF PETITIONS

In re Application of	:	
Kenneth Hardee	:	
Application No. 10/274,321	:	DECISION GRANTING PETITION
Filed: 18 October, 2002	:	
Attorney Docket No. ELTECH-AJ	:	

This is a decision on the petition filed on 24 February, 2003, which is treated as a petition under 37 CFR 1.53(e) requesting that the above-identified application be accorded a filing date of 18 October, 2002.

The petition is **granted**.

The application papers as filed consisted of 33 pages of specification (written description, 48 claims, and an abstract) commingled with drawing Figures 1-3. On 17 December, 2002, however, the Office of Initial Patent Examination sent a Notice of Incomplete Application stating that the was not entitled to a filing date because the application was deposited without drawings.

In reply, the present petition was filed on 24 February, 2003 (certificate of mailing date 18 February, 2003). Petitioner asserts that the three (3) drawing figures commingled with text deposited in the U.S. Patent and Trademark Office on 18 October, 2002, constitute drawings within the meaning of 35 U.S.C. 113, thus entitling the application to a filing date of 18 October, 2002, which is the date the application papers, including drawing Figures 1-3 commingled with text were deposited in the USPTO.

Pursuant to 35 U.S.C. § 111(a)(4), the filing date of a nonprovisional application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office. All conditions for obtaining a filing date in this nonprovisional application were clearly met on 18 October, 2002.

Under the facts of this case, this application is entitled, for a filing date, to the date of receipt of the 33 pages of specification that also contained three (3) drawing figures. There is no explicit requirement that precludes the obtaining of a filing date for a nonprovisional application when the specification and drawings are, as here, not separated. The Notice of 17 December, 2002, was mailed in error and is vacated.

The petition fee of $130.00 is unnecessary and will be credited to counsel's deposit account, No. 05-0882.

It is noted that petitioner filed a duplicate copy of the specification and abstract and drawing Figures 1-3 on two separate sheets of paper. As the drawings were present for filing date purposes in the application papers filed on 18 October, 2002, the sheets of drawings and the copy of the specification and abstract filed on 24 February, 2003, will not be used for processing or examination, but will be retained in the application file.

Rather, petitioners should file a preliminary amendment separating the specification and drawings and presenting the application in compliance with 37 CFR 1.52 prior to the first action on the merits.

This application is being forwarded to the Office of Initial Patent Examination (OIPE), Customer Corrections, for further processing with a filing date of 18 October, 2002, using the application papers filed on that date.

Telephone inquiries specific to this decision should be directed to the undersigned at 703.308.6918. Inquiries related to OIPE processing should be directed to OIPE at 703.308.1202.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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AUG 18 2004

In re Application of
Martha Starr Perry *et al*
Application No. 10/274,334
Filed: October 18, 2002
Attorney Docket No. MSPC-0001

DECISION ON PETITION

This is a decision on the petition to make special filed on March 22, 2004. The $130.00 petition fee has been received.

The petition is dismissed.

The petition to make special is based upon the existence of an actual infringement. A review of the petition shows that all of the requirements established in MPEP § 708.02(II) for a petition on that grounds have not been satisfied. While an Information Disclosure Statement (IDS)was submitted with the application as originally filed, petitioners have not stated that one copy of each of the references deemed most closely related to the subject matter encompassed by the claims has been submitted, or alternatively, that said references are already of record. The possibility that a relevant reference may have been discovered during the period of time between the filing of the IDS and the filing of the instant petition has not, therefore, been addressed.

It is noted that a first action has been mailed on May 3, 2004. Nevertheless, if special status is still desired, petitioners are entitled to file a renewed petition addressing the deficiency in the original petition. The renewed petition does not require any additional fee, but must be filed within two months of the date of this decision pursuant to 37 CFR 1.181(f).

The application remains pending in Technology Center 3700.

PETITION DISMISSED.

Stephen Marcus, Special Program Examiner,
Technology Center 3700

Hitt Gaines P.C.
P.O. Box 832570
Richardson, TX 75083

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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OFFICE OF PETITIONS

In re Application of
Gholmieh et al.
Application No. 10/274,343
Filed: October 18, 2002
Attorney Docket No. 020174

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 14, 2006, to revive the above-identified application.

This application became abandoned for failure to reply timely to the nonfinal Office Action mailed on August 9, 2005, which set a three (3) month shortened statutory period to reply. Accordingly, this application became abandoned on November 10, 2005. The present petition precedes the mailing of a Notice of Abandonment.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment and paid the requisite fees. However, 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" be submitted. The statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition. The petition under 37 CFR 1.137(b) is **granted.**

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. With the present petition, petitioner filed a request for an extension of time with a $1,020.00 fee, subsequent to the maximum period obtainable for reply. Accordingly, this fee is unnecessary and will be refunded to petitioner's Deposit Account.

This matter is being referred to Technology Center Art Unit 2618.

Telephone inquiries should be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

C. T. Donnell
Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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DEC 19 2006

OFFICE OF PETITIONS

In re Application of	:	
William J. Mayer et al.	:	
Application No. 10/274,364	:	DECISION GRANTING PETITION
Filed: October 21, 2002	:	UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 029658-0264	:	

This is a decision on the petition, filed December 7, 2006, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment in favor of a continuation application. *See* 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

Mail Date: 04/21/2010

Applicant	: Norman J. Pressman	: DECISION ON REQUEST FOR
Patent Number	: 7572638	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/274,366	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/21/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1110** 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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United States Patent and Trademark Office
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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FEB 16 2010

In re Application of	:	
John Wirth Jr.	:	
Application No. 10/274,370	:	DECISION ON PETITION
Filed: October 21, 2002	:	
Attorney Docket No. JHN-3584-27	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 19, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 14, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) was obtained.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555.00 extension of time fee submitted with the petition on November 19, 2009, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3687 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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FEB 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Norman J. Pressman et al.	:	DECISION ON PETITION
Application No. 10/274,383	:	TO WITHDRAW
Filed: October 21, 2002	:	FROM RECORD
Attorney Docket No. **029658-0229**	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed December 4, 2009.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks the name of the first inventor or the assignee of record that is associated with the address listed in the request. Therefore, the change of correspondence address is considered improper.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

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SEP 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Chris L. Mann, et al. :
Application No. 10/274,393 :
Filed: October 16, 2002 :
Attorney Docket No. 100201797-1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 2, 2004 to withdraw the above-identified application from issue after payment of the issue fee.

It does not appear that the instant petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Craig A. Slavin appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to Mr. Slavin, the petitioner herein. However, if Mr. Slavin desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. All future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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 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]

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: []Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above.[] Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center AU 1752 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

cc: Craig A. Slavin
Henricks, Slavin & Holmes LLP
840 Apollo Street, Suite 200
El Segundo, CA 90245

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SUGHRUE MION
2100 PENNSYLVANIA AVENUE, NW
SUITE 800
WASHINGTON DC 20037

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OFFICE OF PETITIONS

In re Application of	:	
Harunori Tashiro et al	:	
Application No. 10/274,404	:	ON PETITION
Filed: October 21, 2002	:	
Attorney Docket No. Q72483	:	

This is a decision on the petition, filed September 7, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 22, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

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

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. _____

Date : September 8, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Harunori Tashiro et al
Application No. :10/274,404
Filed :October 21, 2002

The above-identified application has been assigned Patent No. 6,942,517 and an issue date of September 13, 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 September 13, 2005:

"All reference to Patent No. 6,942,517 to Harunori Tashiro et al of Japan for STRUCTURE FOR CONNECTING A COMBINATION LAMP appearing in the Official Gazette of September 13, 2005 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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SAP/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Christian Farhad Woehler	: DECISION ON REQUEST FOR
Patent Number	: 7636670	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/274,414	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/17/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2193** 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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Fish & Richardson, P.C.
500 Arguello Street, Suite 500
Redwood City, California 94063

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JUL 10 2007

OFFICE OF PETITIONS

In re
Naicker et al.
Application No. 10/274,419
Filing Date: October 17, 2002
Attorney Docket: 16593-003001

RECONSIDERATION OF
PATENT TERM ADJUSTMENT

This decision is in response to applicants' APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT timely filed on August 14, 2006 requesting that the Office adjust the PTA calculation at the time of the notice of allowance from a determination of one hundred and seventy (170) days to a determination of two hundred and seventy (270) days.

The applicants' request for PTA reconsideration is **GRANTED.** The Office will adjust the PTA determination calculated IN PAIR. In addition, the Office will sua sponte issue a certificate of correction in the amount of 270 days as requested.

Applicants assert that Office determination of one hundred and seventy (170)days is inaccurate. Applicants assert that the Office erred in reducing the PTA by a period of one hundred days for the submission of supplemental oath or declaration (90) days and 10 days for the submission of a miscellaneous incoming letter (comments on notice of allowability. Applicants assert that the reductions are both in error. As for the reduction for submission of a supplemental oath or declaration after the mail date of the notice of allowance, applicants assert that they had in fact submitted the oath or declaration on March 17, 2003 rather than the date of March 16, 2006. Applicants assert that the March 16, 2006 submission was in fact a copy of the submission filed on March 17, 2003. Applicants submitted a postcard stamped receipt reflecting *prima facie* proof of date of submission. See MPEP 509. In addition, applicants assert that the ten-day reduction for the submission of the miscellaneous

letter was also in error because such submission was a comment on the notice of allowability.

Applicants' arguments are persuasive. Upon review, the Office notes that the supplemental oath or declaration is in fact a courtesy copy of the submission filed on March 17, 2003. The Office improperly entered the date of re-submission as the date that applicants submitted a supplemental oath or declaration and should not be considered a failure to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(c)(10). In addition, the paper submitted on February 28, 2006 is not considered a failure to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(c)(10). Accordingly, the Office missed the requirements of 37 CFR 1.702(a)(1) by a period of 323 days and applicant missed the requirements of 37 CFR 1.704(b)by periods of 29 and 24 days. Thus the correct amount of PTA at the time of the issuance of the patent is 270(323-53=270) days.

After the mailing of this decision, the file will be forwarded to the certificate of correction branch for a prompt issuance of the certificate of correction.

Applicants have provided the required $200.00 fee. No additional fees are required in the determination of this request.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, at 571-272-7757.

Kery A Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Adjusted PTA calculation
Draft certificate of correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT	:	7,060,272 B2
DATED	:	Jun. 13, 2006
INVENTOR(S)	:	Ni 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 (170) days

Delete the phrase "by 170 days" and insert – by 270 days--

PALM INTRANET

Day : Monday
Date: 7/9/2007
Time: 11:51:09

PTA Calculations for Application: 10/274419

Application Filing Date:	10/17/2002	PTO Delay (PTO):	323
Issue Date of Patent:	06/13/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	153
Post-Issue Petitions:	0	Total PTA (days):	270
PTO Delay Adjustment:	100		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
51	07/09/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	100		
47.5	05/24/2006	PTA 36 MONTHS			
47	06/13/2006	PATENT ISSUE DATE USED IN PTA CALCULATION			
46	05/18/2006	EXPORT TO FINAL DATA CAPTURE			
45	05/16/2006	FINISHED INITIAL DATA CAPTURE			
44	05/16/2006	DISPATCH TO FDC			
43	05/01/2006	RECEIPT INTO PUBS			
42	04/26/2006	WORKFLOW - QUERY REQUEST - FINISH			
41	02/28/2006	MISCELLANEOUS INCOMING LETTER		10	36
40	03/21/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
39	03/20/2006	WORKFLOW - QUERY REQUEST - FINISH			
38	03/16/2006	SUPPLEMENTAL PAPERS - OATH OR DECLARATION		90	36
37	02/28/2006	ISSUE FEE PAYMENT VERIFIED			
36	03/09/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
35	03/09/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
34	02/28/2006	ISSUE FEE PAYMENT RECEIVED			
33	03/01/2006	REVERSE ISSUE FEE			
32	03/01/2006	ISSUE FEE PAYMENT RECEIVED			
31	02/10/2006	WORKFLOW - QUERY REQUEST - BEGIN			
30	12/20/2005	RECEIPT INTO PUBS			
29	12/12/2005	EXPORT TO INITIAL DATA CAPTURE			
28	12/07/2005	MAIL NOTICE OF ALLOWANCE			
27	11/30/2005	ISSUE REVISION COMPLETED			

26	11/30/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
25	11/28/2005	NOTICE OF ALLOWABILITY			
24	09/15/2005	DATE FORWARDED TO EXAMINER			
23	09/02/2005	RESPONSE AFTER NON-FINAL ACTION		29	21
22	09/02/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	05/04/2005	MAIL NON-FINAL REJECTION			
20	05/03/2005	NON-FINAL REJECTION			
19	02/18/2005	DATE FORWARDED TO EXAMINER			
18	02/01/2005	RESPONSE AFTER NON-FINAL ACTION			
17	02/01/2005	WORKFLOW INCOMING AMENDMENT IFW			
16	11/04/2004	MAIL NON-FINAL REJECTION	323		-1
15	11/01/2004	NON-FINAL REJECTION			
14	01/08/2004	CORRESPONDENCE ADDRESS CHANGE			
13	07/23/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	09/04/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	04/24/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	04/07/2003	APPLICATION DISPATCHED FROM OIPE			
9	04/04/2003	APPLICATION IS NOW COMPLETE			
8	03/17/2003	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM		24	5
7	10/17/2002	CLAIM PRELIMINARY AMENDMENT			
6	03/17/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	11/21/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	11/15/2002	CLEARED BY L&R (LARS)			
2	10/25/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/17/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No.

SOFER & HAROUN, LLP
Suite 910
317 Madison Avenue
New York NY 10017

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OFFICE OF PETITIONS

In re Application of :
Barioz :
Application No. 10/274,426 :
Filed: October 18, 2002 :
Attorney Docket Number: 979-010 :
Title: METHOD OF MANUFACTURING :
A CABLE SHEATH BY EXTRUDING AND :
CROSS-LINKING A COMPOSITION :
BASED ON SILANE-GRAFTED :
POLYMER, AND A CABLE INCLUDING :
A SHEATH OBTAINED BY THE METHOD :

DECISION ON PETITION
UNDER 37 C.F.R. § 1.137(B)

This is a decision on the petition filed January 27, 2010, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **DISMISSED**.

On September 21, 2006, an Appeal Brief was filed in the Office. The above-identified application became abandoned for failure to reply in a timely manner to the Notification of Non-Compliant Appeal Brief (37 C.F.R. § 41.37), mailed December 5, 2006, which set a shortened statutory period for reply of one month. 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 6, 2007. A notice of abandonment was mailed on July 27, 2007.

A grantable petition pursuant to 37 C.F.R § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;

(2) The petition fee as set forth in 37 C.F.R § 1.17(m);
(2) 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;
(3) Any terminal disclaimer (and fee as set forth in 37 C.F.R § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Applicant has submitted the petition fee, the required statement of unintentional delay, and an appeal brief. The first and second requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

Regarding the third requirement, Applicant has not established that the entire period of delay was unintentional. It is noted that the present petition was not filed until two years and six months had passed since the mailing of the notice of abandonment.[2] It is not clear why the Applicant chose to take no course of action for such a long period of time. It does not appear that any action was taken to further the prosecution of this application, subsequent to the mailing of the notice of abandonment on July 27, 2007, for two years and six months.

As such, it appears that the Applicant intentionally allowed this application to go abandoned. The extended inaction of the Applicant appears to be intentional.

A discussion follows.

In order for a petition under 37 C.F.R. § 1.137(b) to be granted, the holder of the rights to the application must have unintentionally allowed the application to go abandoned, and a delay resulting from a deliberately chosen course of action on the part of the applicant is not an "unintentional" delay within the meaning of 37 C.F.R. § 1.137(b).

The periods of delay:

There are three periods to be considered during the evaluation of a petition under 37 C.F.R. § 1.137(b):

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1 See Rule 1.137(d).
2 Petitioner has asserted that the notice of abandonment was not received, and has submitted a heavily redacted copy of a mail log for the relevant time period.

(1) the delay in reply that originally resulted in the abandonment;
(2) the delay in filing an initial petition pursuant to 37 C.F.R. § 1.137(b) to revive the application; and
(3) the delay in filing a grantable petition pursuant to 37 C.F.R. § 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) or (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 Commissioner to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 C.F.R. § 1.137(b)(3) provides that a petition under 37 C.F.R. § 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 Applicant must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 C.F.R. § 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 of two years and six months in resuming prosecution, there is a question whether the entire delay was unintentional. Applicant 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 C.F.R. § 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. That party, in turn must explain what effort(s) was made to reply to the outstanding Office action and further, why no reply was filed. If no effort was made to reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). **Both the Applicant and the attorney of record should explain why this application became abandoned subsequent to the mailing of the Notification of Non-Compliant Appeal Brief of December 5, 2006. Statements from both the Applicant and the attorney of record must be provided. It must be explained why no response was submitted to this Office action for such an extended period of time.**

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), where the applicant deliberately chose 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 C.F.R. § 1.137(b).[3]

The language of both 35 U.S.C. § 41(a)(7) and 37 C.F.R. § 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

3 See MPEP § 711.03(c).

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 C.F.R. § 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 clear that any protracted delay (here, two years and six months) 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 Applicant and the attorney of record, explaining why this petition was not filed sooner.**

Moreover, Applicant must explain what prompted the decision to advance the prosecution of this application after the passage of so much time.

Punctuality and Due Diligence:

For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894).

Similarly, an invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

The lengthy period of inaction does not appear to be consistent with the requirements of punctuality, due diligence, good faith, and the encouragement of reasonable promptness.

On renewed petition, each of these issues will need to be addressed, and statements from both the Applicant and the attorney of record must be included, if it is to be established that the entire period of delay was unintentional.

Applicant is reminded that any statement of facts should be made by one having firsthand knowledge of the facts set forth therein.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.137(b)". This is not a final agency action within the meaning of 5 U.S.C § 704. **Thereafter, there will be no further reconsideration of this matter**.[4]

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[5] hand-delivery,[6] or facsimile.[7] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[8]

If responding by mail, Applicant is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

It is noted in passing that Petitioner has included as a part of this petition a request for this application to be linked with a Customer Number. A review of the electronic record shows that the declaration that was submitted on original presentation does not list a Customer Number thereon, and a subsequent request to

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4 If, on request for reconsideration, Applicant fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. § 1.137(e), will **not** apply to that decision.
5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
7 (571) 273-8300- please note this is a central facsimile number.
8 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

change the correspondence address has not been located therein. Any request to change the correspondence address must be done in a separate paper, pursuant to 37 C.F.R. § 1.4(c).

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[9] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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9 Applicant 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, Applicant is reminded that no telephone discussion may be controlling or considered authority for Applicant's further action(s).

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FEB 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Bernhard W. Kuchel	:	
Application No. 10/274,440	:	ON PETITION
Filed: October 17, 2002	:	
Attorney Docket No. SMCY-P01-080	:	

This is a decision on the petition, filed September 30, 2005, under 37 CFR 1.181(a) to Withdraw Holding of Abandonment.

The petition is **GRANTED**.

Office records do show that Technology Center AU 3673 rescinded the abandonment on October 11, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 3673.

Karen Creasy
Petitions Examiner
Office of Petitions

SPE G. Kunz

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/274,445

Paper No.: _____

DATE : 6/8/05

TO SPE OF : ART UNIT 1616

SUBJECT : Request for Certificate of Correction on Patent No.: 6887487

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Lamonte Newsome

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes do not apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

Gary L. Kunz — **SPE**

1616 — **Art Unit**

OIPE JC174
MAY 0 6 2005
PATENT & TRADEMARK OFFICE

10/274445 IFW

CofC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of: Yerramilli V.S.N. MURTHY *et al.*

Patent Number: US 6,887,487 B2

Date of Patent: May 3, 2005

For: INJECTABLE COMPOSITION FOR THE CONTROLLED DELIVERY OF PHARMACOLOGICALLY ACTIVE COMPOUNDS

Attorney Docket No.: 13390 / 06011

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. § 1.322

Certificate
MAY 1 3 2005
of Correction

Customer Service Window
Commissioner for Patents
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

Patentee hereby respectfully requests the issuance of a Certificate of Correction in connection with the above-identified patent. In accordance with 37 C.F.R. § 1.322, patentee has set forth the desired corrections and the basis for these corrections. Finally, the required Form PTO-1050 is provided herewith.

Claims 1 and 25 contain typographical errors. In the title, the word "COMPOUND" should be replaced with the word --COMPOUNDS-- (*i.e.*, the plural). The specific errors are summarized below:

Claim 7, line 2, replace the phrase "C_{10}-C_{15}" with --C_{10}-C_{18}--.

Claim 25, line 4, replace the word "dmethyl" with --dimethyl--.

Change the title to read -- INJECTABLE COMPOSITION FOR THE CONTROLLED DELIVERY OF PHARMACOLOGICALLY ACTIVE COMPOUNDS--.

MAY 1 8 2005

PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,887,487 B2

DATED : May 3, 2005

INVENTOR(S) : Yerramilli V.S.N. MURTHY et al.

It is certified that errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 7, line 2, replace the phrase "C_{10}-C_{15}" with --C_{10}-C_{18}--.

Claim 25, line 4, replace the word "dmethyl" with --dimethyl--.

Change the title to read -- INJECTABLE COMPOSITION FOR THE CONTROLLED DELIVERY OF PHARMACOLOGICALLY ACTIVE COMPOUNDS--.

MAILING ADDRESS OF SENDER:
KENYON & KENYON
1500 K Street, NW
Washington, D.C. 20005-1257
(202) 220-4200

FORM PTO 1050

PATENT NO. 6,887,487 B2

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==> _____

MAY 1 8 2005

These errors in the claims are simple typographical errors. Accordingly, patentee respectfully requests that the above-identified corrections be made and respectfully requests the issuance of a Certificate of Correction in connection with the above-identified patent. The corrections are listed on the attached Form PTO-1050, submitted in duplicate

The error is clerical in nature and appears to have been made on the part of the Patent Office. Accordingly, no fee is believed to be due for this request. Should any fees be required, however, please charge such fees to Kenyon & Kenyon Deposit Account No. 11-0600. Please issue a Certificate of Correction in due course.

Respectfully submitted,

Date May 6, 2004

Paul E. Dietze, Ph.D. (Reg. No. 45,627)

Kenyon & Kenyon
1500 K Street, N.W.
Washington, D.C. 20005-1257

(202) 220-4200-telephone
(202) 220-4201-facsimile

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HOWREY SIMON ARNOLD & WHITE, LLP - OC
301 RAVENSWOOD AVENUE
BOX 34
MENLO PARK, CA 94025

COPY MAILED

JUN 2 4 2005

OFFICE OF PETITIONS

In re Application of
Martin De Tezanos Pinto
Application No. 10/274,457
Filed: October 18, 2002
For: MANIFOLD FOR FUEL CELL SYSTEM

DECISION GRANTING PETITION UNDER 37 CFR 1.47(b)

This is in response to the "Petition Under 37 CFR 1.47(b)," filed February 19, 2003. The petition was recently forwarded to this office for review.

The petition is granted.

Petitioner has shown that the non-signing inventor cannot be located. Specifically, the declaration of Lorelei P. Westin establishes that the inventor cannot be found after diligent effort. In addition, petitioner has shown that Metallic Power, Inc. has a proprietary interest in the above-identified application with the copy of the "Employment, Inventor, Author and Secrecy Agreement" showing that the inventor had an obligation to assign any patent rights to Metallic Power, Inc. The petition fee will be charged to petitioner's deposit account. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that petitioner has shown that such action is necessary to preserve the rights of Metallic Power, Inc.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(b), this Office will forward notice of this application's filing to the non-signing 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, petitioner's deposit account No. 08-3038, will be charged the required $130 petition fee.

The application will be forwarded to Publications Branch.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.go

MARTIN DE TEZANOS PINTO
2370 RISING GLEN WAY, #103
CARLSBAD, CA 92008

COPY MAILED

JUN 2 4 2005

OFFICE OF PETITIONS

In re Application of
Martin De Tezanos Pinto
Application No. 10/274,457
Filed: October 18, 2002
For: MANIFOLD FOR FUEL CELL SYSTEM

Dear Martin De Tezanos Pinto:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3228. 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).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

HOWREY SIMON ARNOLD & WHITE, LLP - OC
301 RAVENSWOOD AVENUE
BOX 34
MENLO PARK, CA 94025

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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Attn: Michael A. Shippey, Ph.D.
Law Offices of Karla Shippey
4848 Lakeview Avenue, Suite B
Yorba Linda, California 92886

MAILED
FROM DIRECTORS OFFICE

Paper No. 11

FEB 27 2006

TECHNOLOGY CENTER 3600

In re Application of:
Jon Carlson
Application No. 10/274,476
Filed: October 21, 2002
For: Illuminated Poster Frame

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is in response to the Petition to Withdraw Holding of Abandonment received December 8, 2004. Applicant requested that 1) Abandonment be withdrawn as premature; 2) Request for reconsideration of the non-compliant letter mailed July 2, 2004 and waiver of the Rules associated with the deficiencies noted therein; and 3) additional time to reply.

A review of the application reveals that a non-final office action was mailed November 12, 2003. An amendment in response to this action was received May 12, 2004 and accompanied by a three month extension. A non-compliant letter was mailed July 6, 2004 stating that the amendment was non-compliant because 1) amendments to the specification did not include markings; 2) new paragraphs should not be underlined; and 3) complete paragraphs were not presented. At the bottom of this non-compliant form the following statement appears "If the non-compliant amendment is in reply to a **NON-FINAL OFFICE ACTION**, and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a **TIME PERIOD** of **ONE MONTH** from the mailing date of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a)**.".

A Notice of Abandonment was mailed December 1, 2004.

Applicant argues that the Notice of Non-compliant letter failed to set a specific time period, and therefore, under 37 CFR 1.134, Applicant is allowed 6 months to reply. Therefore, according to Applicant the reply was not due until January 6, 2005.

As stated above, the Notice of Non-compliance did indeed set a time period of one month for reply with a note that an extension was available (in this instance up to five months). Thus, the reply was actually due August 6, 2004 without the need for an extension or up to January 6, 2005 with the appropriate extension of time. Thus, the abandonment letter was mailed one month prematurely. Since another month was still available, an appropriate response received before January 6, 2005 and accompanied by the appropriate extension of time (five months) would have been acceptable. The request for reconsideration did not provide a compelling reason to waive the rules and thus the appropriate response to the non-compliant letter would have been to re-submit the corrected sections of the amendment. Such an appropriate response, including the appropriate extension did not accompany this petition.

Therefore, the Petition is hereby **DISMISSED**.

Applicant 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 applicant has, 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
P.O. Box 1450
Alexandria, VA 22313-1450
(703) 872-9306
Attn: Office of Petitions

Telephone inquiries should be directed to the Office of Petitions Staff at (571) 272-3282.

Any questions regarding this decision should be directed to Lesley Morris (571) 272-6651.

Robert Oberleitner
Director, Technology Center 3600
(571) 272-5350

LM/SM: 2/25/2006
SM

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper 14

MICHAEL A. SHIPPEY, PH.D.
4848 LAKEVIEW AVENUE
SUITE B
YORBA LINDA, CA 92886

COPY MAILED

JUL 19 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of
Jon Carlson
Application No. 10/274,476
Filed: October 21, 2002
Attorney Docket No. 281.100

This is a decision on the petition, filed March 31, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

A non-Final Office Action was mailed November 12, 2003 . A response was due not later than February 12, 2004. A response in the form of an amendment was filed May 12, 2004 with a three month extension of time request. On July 6, 2004 the applicant was advised that the amendment filed was non-compliant under 37 CFR 1.121. The time for response was one month from the mailing of the July 6, 2004 Notice. Accordingly, a Notice of Abandonment was mailed December 1, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

The response to the July 6, 2004 has been submitted with the petition to revive. This matter is being referred to Technology Center 3611 for processing of the amendment.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SEP 24 2009

David A. Einhorn, Esq.
Baker & Hostetler LLP
45 Rockefeller Plaza
New York, NY 10111

In re application of:	:	Petition to Withdraw the
Shinghoi Lee et al.	:	Requirement for the Information
Application No. 10/274,536	:	Request Under 37 CFR 1.105
Filed: October 17, 2002	:	
For: SYSTEM AND METHOD FOR	:	
PRICING DEFAULT INSURANCE	:	

This is a decision on Applicant's Petition under 37 CFR §1.181 filed on December 22, 2008 to withdraw the requirement for information under 37 CFR §1.105.

The Petition is **GRANTED**.

On June 19, 2008 a requirement for information under 37 CFR §1.105 was mailed citing that the applicant provide:

(a) the dates and the extent to which the claimed invention was put into use by the Applicant and to demonstrate with any relevant documentation, specifically, that the use is experimental and not subject to the 35 U.S.C. 102(b) statutory bar for public use more than one year prior to the date of filing of the Application.

(b) the citation and a copy of each publication which any of the applicants authored or co-authored and which describe the disclosed subject matter.

(c) the names of any products or services that have already incorporated the claimed subject matter.

(d) the details behind the equations/functions/formulas recited in claims 8, 17, 18, 19, 34, and 35, and their dependent claims.

(e) provide references to the articles(s) or textbook(s) where the equations/functions/ formulas recited in claims 8, 17, 18, 19, 34 and 35 can be found, which were used by the Applicants in drafting the present application.

(f) specifically, how the equations/functions/formulas recited in claims 8, 17, 18, 19, 34 and 35 were derived and/or where they came from.

With respect to (a) and (c), the examiner explained in the interview on November 18, 2008 that there was no question of prior use raised. Accordingly, the request for information of use by the examiner is not in accordance with MPEP 704.12 (a) for invoking 35 CFR 1.105.

With respect to (b), upon review of the provisional application 60/340,306, submitted by the applicant on December 14, 2001, and the written description submitted October 17, 2002 in the instant application, it has been found that the applicant submitted citations for publications to support the invention of the applicant.

With respect to (d), (e) and (f) above, upon review of the provisional application 60/340,306, submitted by the applicant on December 14, 2001, and the written description submitted October 17, 2002 in the instant application, it has been found that the applicant submitted, with respect to formulas of claims 8, 17, 18, 19, 34, and 35, the motivation considered and how they were derived.

The petition is **GRANTED.**

Inquiries should be directed to Jim Trammell, Supervisory Patent Examiner, at 571-272-6712

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

jt: 9/1/09

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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KATTEN MUCHIN ROSENMAN
575 MADISON AVENUE
NEW YORK, NY 10022-2585

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JUN 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Nobuhiro Rikitake et al :
Application No. 10/274,537 : ON PETITION
Filed: October 17, 2002 :
Attorney Docket No. FUJH20.028 :

This is a decision on the petition under 37 CFR 1.313 (c)(2), filed May 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 March 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 Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2814 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

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JAN 0 9 2006

OFFICE OF PETITIONS

In re Application of	:	
Rikitake et al.	:	
Application No. 10/274,537	:	ON PETITION
Filed: October 17, 2002	:	
Attorney Docket No. FUJH 20.028	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 19, 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; (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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 04/21/2010

Applicant	: Yong-Jun Kwak	: DECISION ON REQUEST FOR
Patent Number	: 7630725	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/274,565	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/21/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **600** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 05/18/2010

Applicant : Yong-Jun Kwak
Patent Number : 7630725
Issue Date : 12/08/2009
Application No : 10/274,565
Filed : 10/21/2002

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **633** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Patent Department
Exelixis, Inc.
170 Harbor Way
P. O. Box 511
South San Francisco, CA 94083-0511

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JUN 29 2005

OFFICE OF PETITIONS

In re Application of :
Marcia Belvin, et al. :
Application No. 10/274,583 :
Filed: October 21, 2002 :
Attorney Docket No. EX02-119C :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 4, 2005, to revive the above-identified application.

The petition is **GRANTED**.

A Restriction Requirement was mailed to applicant on September 8, 2004, which set a two (2) month shortened statutory period for reply. As no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on December 9, 2004.

Since the application became abandoned, applicant filed the instant petition and a proposed reply, namely, a "Response to Restriction Requirement." Receipt of the response is acknowledged.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 1600.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 13 2004

NOLTE, NOLTE & HUNTER
CHRISTOPHER B GARVEY
1077 NORTHERN BLVD
ROSLYN NY 11701

In re Application of	:
Linneth Hall	:
Serial No.: 10/274,596	: SUSPENSION OF ACTION
Filed: October 21, 2002	:
Attorney Docket No.: Hall 1 utility	:

This letter is in response to the petition under 37 CFR 1.103(a), received June 30, 2004, seeking suspension of action in this application for a period of six months.

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office.

A review of the file history shows that applicants responded to the last Office action on June 1, 2004, and that the response is a complete response insofar as is possible.

Applicant seeks suspension of action because, according to applicant, the examiner said she wanted to see animal studies to show that their invention will work *in-vivo* with respect to cancer. However, there is no requirement for animal studies, and applicant has not been directed to conduct animal studies. Furthermore, animal studies are not required to overcome a question of enablement.

Applicant's petition is **DENIED**.

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 the general Office facsimile number 703-872-9306.

Bruce Kisliuk
Director, Technology Center 1600

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DOV ROSENFELD
5507 COLLEGE AVE
SUITE 2
OAKLAND, CA 94618

Mail Date: 04/30/2010

Applicant	: Marco Molteni	: DECISION ON REQUEST FOR
Patent Number	: 7613142	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/274,600	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/21/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1712** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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APR 29 2004

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APR 29 2004
OFFICE OF THE DIRECTOR
TC 3600

STROOCK & STROOCK & LAVAN LLP
180 Maiden Lane
New York, New York 10038-4982

In re application of George S. Gabriel et al. Application No. 10/274,619 Filed: October 21, 2002 For: FLUID DELIVERY SYSTEM	: : : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on March 31, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.
The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a statement from the applicant and a copy of applicant's birth certificate indicating 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

SNM/VDB: 4/22/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY - 6 2004

OFFICE OF THE DIRECTOR
TC 3600

STROOCK & STROOCK & LAVAN, LLP
180 Maiden Lane
SUITE 100
New York, New York 10038-4982

In re application of
George S. Gabriel et al.
Application No. 10/274,619
Filed: October 21, 2002
For: FLUID DELIVERY SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on March 21, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a copy of A birth certificate from George S. Gabriel showing that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/vdb 5/5/04

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,818,573	2004-11-16	10274661	2002-10-19	173P111

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	/Ann M. Knab/	Date (YYYY-MM-DD)	2009-09-15
Name	Ann M. Knab	Registration Number	33331

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. 6818573
Issue Date: November 16,2004
Application No. 10274661
Filed: October 19,2002
Attorney Docket No. P-660-8

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 15,2009 ,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 September 15,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 5

TAKASHI ONO
36-14 GOROMARU
INUYAMA SHI AITIKEN
JAPAN

COPY MAILED

JUL 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Takashi Ono :
Application No. 10/274,705 :
Filed: October 18, 2002 :
Title of Invention. CONNECTOR ASSEMBLY :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed July 13, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

This application became abandoned on April 20, 2003, for failure to file a timely response to the Notice to File Corrected Application Papers mailed February 19, 2003, which set a two (2) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed June 9, 2004.

Petitioner asserts that the delay in responding to the Notice was unavoidable and files the petition under 37 CFR 1.137(a)[1] but further claims non receipt of the Notice mailed February 19, 2003.

The petition under 37 CFR 1.137(a) lacks the filing fee required under 37 CFR 1.137(a).

However, a review of the file reveals several return mail items including the Notice to File Corrected Application Papers mailed February 19, 2003, although the file record discloses that the Notice to File Corrected Application Papers was mailed to the address of record which is the same address used on all correspondences from the USPTO including the Notice of Abandonment, which incidentally was not returned and apparantly was properly delivered to the petitioner,

---

[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)).

In view of the facts set forth in the petition and the review of the file, it is apparent that the Notice was not received at the address of record. Accordingly, the holding of abandonment is withdrawn under 37 CFR 1.181(b), in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513. No fee is due for treatment of a petition under 37 CFR 1.181.

Should petitioner choose to renew the petition under 37 CFR 1.137(a), a request must be made 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 and all mail should be addressed to:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703)872-9306
ATTN: Office of Petitions

If the mail is again returned by the postal service, it will be incumbent upon the applicant to provide alternative means for receiving mail from the United States.

This application is being forwarded to the Office of Initial Patent Examination for a remailing of the Notice to File Corrected Application Papers.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OCT - 7 2004

OSI PHARMACEUTICALS
58 SOUTH SERVICE ROAD, SUITE 110
MELVILLE, NY 11747

In re Application of	:
Rifat Pamukcu et al	:
Serial No.: 10/274,709	: PETITION DECISION
Filed: October 21, 2002	:
Attorney Docket No.: P-159-2	:

This is in response to the petition under 37 CFR 1.181, filed May 18, 2004, requesting withdrawal of abandonment based on timely filing of a reply.

A review of the file history shows that the examiner mailed a non-Final Office action to applicants on April 8, 2003, setting a three month shortened statutory period for reply. On April 29, 2004, the Office mailed a Notice of Abandonment to applicants for failure to file a reply to the Office action. Applicants state that a reply was filed on October 8, 2003, accompanied by a three month extension of time request and fee, and provide a copy thereof with a properly executed Certificate of Mailing. Another copy was facsimile transmitted to the examiner on November 19, 2003. The original reply has not been located and the copy provided with the petition will be utilized in lieu thereof. In view of the timely reply, the Notice of Abandonment was mailed in error and is withdrawn and the application restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

No fee is due for this petition and the petition fee paid of $130.00 will be credited to applicants' Deposit Account No. 50-2783, as directed.

The application will be forwarded to the 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

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6702769
Issue Date: March 9,2004
Application No. 10274715
Filed: October 21,2002
Attorney Docket No. 09105.150001

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 23,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 23,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
6702769	2004-03-09	10274715	2002-10-21	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/george l snyder jr/	Date (YYYY-MM-DD)	2008-04-23
Name	George L. Snyder, Jr.	Registration Number	37729

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

Schweitzer, Cornman, Gross & Bondell LLP
Fritz L. Schweitzer III
292 Madison Avenue- 19th Floor
New York, NY 10017

MAILED

MAY 13 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Paper No. 6

In re application of
Frank Pinco
Application No. 10/274718
Filed: October 21, 2002
For: CASKET DISPLAY SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on February 3, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirement (E) above. The petition does provide a general discussion of the cited references; however, the discussion does not make it clear how the claimed invention is patentable over the cited references in accordance with 37 CFR 1.111(b) and (c). Applicant is required to provide a more detailed discussion of how the claimed subject matter is patentable over each of these references. For example, applicant states "the references do not disclose or suggest a casket display comprising an enclosure, a corner casket portion and a feature display stand ...". However, applicant's descriptions of at least U.S. Patent Nos. 6,145,671, 6,070,741 and 6,145,672 include burial casket displays with enclosures and

merchandise displays. Applicant has not specifically indicated the claim language that distinguishes the claimed invention over the cited prior art.

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.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/mjz: 5/7/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCHWEITZER CORNMAN GROSS & BONDELL LLP
292 MADISON AVENUE - 19th FLOOR
NEW YORK NY 10017

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JUL 1 0 2006

OFFICE OF PETITIONS

In re Application of	:
Frank Pinco	:
Application No. 10/274,718	: DECISION ON PETITION
Filed: October 21, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1046-003P-A	:

This is a decision on the petition filed April 11, 2006, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of a prior-filed non-provisional application.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All requirements having been satisfied, the late claim for priority under 35 U.S.C. 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other

requirements under 35 U.S.C. 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3634 for appropriate action on the amendment filed April 11, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 120 to the prior-filed application.

Frances Hicks

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
www.uspto.gov

LEON R. YANKWICH, ESQ.
YANKWICH & ASSOCIATES, P.C.
201 BROADWAY
CAMBRIDGE, MA 02319

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OFFICE OF PETITIONS

In re Application of	:	
Victor Bronshtein et al	:	
Application No. 10/274,719	:	NOTICE
Filed: October 18, 2002	:	
Attorney Docket No. UPT-036.0 US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This matter is being referred to Publishing Division to be processed into a patent.

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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www.uspto.gov

THE TORPY GROUP, P.L.
202 N. HARBOR CITY BLVD.
SUITE 200
MELBOURNE, FL 32935

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OFFICE OF PETITIONS

In re Application of
Christopher A. Holler
Application No. 10/274,724
Filed: October 21, 2002
Attorney Docket No. 113.21.87

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed July 5, 2005.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before June 14, 2005. This decision precedes the mailing of a Notice of Abandonment. Receipt is acknowledged of the issue fee on July 5, 2005.

This application is being referred to Publishing Division for further processing.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (703) 305-8283.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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KARL D. KOVACH
STRATOS INTERNATIONAL, INC.
7444 WEST WILSON AVENUE
CHICAGO, IL 60706

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Xiaojie Xu et al :
Application No. 10/274,728 :
Filed: October 21, 2002 :
Attorney Docket No. 210TS001

This is a decision on the petition, filed September 27, 2004, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 25, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 2874 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 6

SHELDON & MAK
9th Floor
225 South Lake Avenue
Pasadena, CA 91101

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OCT 02 2003

OFFICE OF PETITIONS

In re Application of	:	
Miklavcic et al.	:	DECISION ACCORDING
Application No. 10/274,738	:	STATUS UNDER
Filed: October 21, 2002	:	37 CFR 1.47(a)
Attorney Docket No. 14295US	:	
For: ELECTROPORATION DEVICE AND METHOD, DELIVERING A MODULATED SIGNAL UNDER CONTINUOUS CONTROL OF CELL ELECTROPERMEABILIZATION	:	

This is in response to the petition under 37 CFR 1.47(a) filed August 21, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers or cannot be located.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The petition fee of $130 has been charged to petitioner's deposit account.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

Bertil Persson
c/o University Hospital,
Radiation Physics Dept.
S-22185 Lund
SWEDEN

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OCT 0 2 2003

OFFICE OF PETITIONS

In re Application of :
Miklavcic et al. :
Application No. 10/274,738 :
Filed: October 21, 2002 :
Attorney Docket No. 14295US :
For: ELECTROPORATION DEVICE AND METHOD, DELIVERING A MODULATED SIGNAL UNDER CONTINUOUS CONTROL OF CELL ELECTROPERMEABILIZATION :

Letter

Dear Mr. Persson:

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 Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: SHELDON & MAK
9th Floor
225 South Lake Avenue
Pasadena, CA 91101

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

AUDLEY A. CIAMPORCERO JR.
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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MAR 2 1 2003

OFFICE OF PETITIONS

In re Application of
Maguire, et al.
Application No. 10/274,742
Filed: October 21, 2002
Attorney Docket No. ATR-56
For: TISSUE ABLATION DEVICE ASSEMBLY AND METHOD FOR ELECTRICALLY ISOLATING A PULMONARY VEIN OSTIUM. FROM AN ATRIAL WALL

DECISION GRANTING PETITION

This is a decision on the petition entitled, "PETITION IN RESPONSE TO NOTICE OF OMITTED ITEMS," filed February 10, 2003 (certificate of mailing date February 4, 2003), requesting that Figure 9E be accorded a filing date of October 21, 2002 and that all references to Figures 25D-E and 38C-D be eliminated from the specification. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on October 21, 2002. On December 16, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that drawing figures 9E, 25D-E, and 38C-D described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition.

With respect to Figure 9E, petitioners request that it be accorded a filing date of October 21, 2002 on the basis that 58 sheets of drawing figures, including drawing figure 9E, were received in the Patent and Trademark Office (PTO) on October 21, 2002. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing October 21, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 58 sheets of drawings. The return postcard constitutes *prima facie* evidence that 58 sheets of drawing figures, including drawing figure 9E, were filed on October 21, 2002. MPEP 503.

With respect to Figures 25D-E and 38 C-D, petitioners state that they did not file Figures 25D-E and 38 C-D on October 21, 2002. They have filed a preliminary amendment eliminating all references to Figures 25D-E and 38 C-D.

Accordingly, the request is **GRANTED**.

No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination (OIPE)for further processing, with a filing date of **October 21 2002**, using the copy of drawing figure 9E submitted

with the instant petition. Office records will be corrected to show that 58 sheets of drawings were present on filing. OIPE will address the Request for Corrected Filing Receipt, filed February 10, 2003 (certificate of mailing date February 4, 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
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Paper No. 7

FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON, TX 77010-3095

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AUG 06 2003

OFFICE OF PETITIONS

In re Application of
Bell, et al.
Application No. 10/274,743
Filed: October 21, 2002
Atty. Dkt. No. HO-P02492US0
For: POUCH WITH SOUND STRIP

DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed June 30, 2003.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON, TX 77010-3095

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MAY 19 2003

OFFICE OF PETITIONS

In re Application of
Bell, et al.
Application No. 10/274,743
Filed: October 21, 2002
Atty. Dkt. No. HO-P02492US0
For: POUCH WITH SOUND STRIP

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(a), filed April 3, 2003.

The petition is hereby **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. 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 21, 2002 without an executed oath or declaration and naming Alana E. Bell, Charley E. Brokaw, Gary N. Chisholm, Jeannette Dido, Shawn P. Sullivan, and Rolly L. Zech as joint inventors. Accordingly, on November 26, 2002, a Notice to File Missing Parts of Nonprovisional Application ("Notice") was mailed, requiring *inter alia* an executed oath or declaration and surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 USC §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition fails to satisfy requirement (1) set forth above. Petitioner has failed to establish that the non-signing inventor received the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the oath or declaration. The statement of facts made by Laura Paluch is insufficient as it fails to detail the manner in which the application papers (specification, claims, drawings, and oath or declaration) were presented to the non-signing inventor. While the statement of facts indicates the inventor "reviewed the application prior to its filing in the U.S. Patent Office," the statement of facts seems to imply that the inventor was required to appear at assignee's business location "to review the application documents and sign the declaration." Hence, it is unclear to the Office if in fact the non-signing inventor received the application papers

(specification, claims, drawings, and oath or declaration) before the alleged refusal to sign the declaration was made to Gary Chisholm.

Petitioner is reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor.

Any renewed petition should be accompanied by evidence to sufficiently establish that the non-signing inventor was sent a complete copy of the application papers and thereafter refused to execute the declaration. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney. Petitioner may wish to provide the Office copies of letters sent to the inventor indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor receives the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition.

Further correspondence with regard to the petition under 37 CFR 1.47(a) should be addressed as follows:

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, **Mail Stop Petition** Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
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. 14

Howard M. Peters
PETERS, VERNY, JONES & SCHMITT,
L.L.P.
Suite 6
385 Sherman Avenue
Palo Alto, CA 94306

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APR 07 2003

OFFICE OF PETITIONS

In re Application of:
Raymond L. Rodriguez and
Bruce R. Thomas
Application No.: 10/274,748
Filed: October 18, 2002
Title of Invention: DNA SEQUENCES CAPABLE OF EXPRESSING FOREIGN PROTEINS AND METABOLITES IN DICOTYLEDONOUS PLANTS AND CELL CULTURE

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the Petition Under 37 CFR 1.47(a), filed February 14, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Bruce R. Thomas, refuses to sign the declaration.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

A timely response necessitated a one (1) month extenstion-of-time, accordingly, the fee for a one (1) month extension-of-time has been charged to deposit account 16-1331, as authorized in the instant petition.

The application file is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Dr. Bruce R. Thomas
2477 Sycamore Lane
Apt. G-6
Davis, CA 95616

In re Application of:
Raymond L. Rodriguez and
Bruce R. Thomas
Application No.: 10/274,748
Filed: October 18, 2002
Title of Invention: DNA SEQUENCES CAPABLE OF EXPRESSING FOREIGN PROTEINS AND METABOLITES IN DICOTYLEDONOUS PLANTS AND CELL CULTURE

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APR 07 2003

OFFICE OF PETITIONS

LETTER

Dear Dr. Thomas:

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) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: Howard M. Peters
PETERS, VERNY, JONES & SCHMITT, L.L.P.
Suite 6
385 Sherman Avenue
Palo Alto, CA 94306

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

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MAR 2 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Paul W. Dent	:	
Application No. 10/274,763	:	DECISION ON PETITION
Filed: October 21, 2002	:	
Attorney Docket No. 8194-636FWC2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 5, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed September 5, 2006. Accordingly, the date of abandonment of this application is December 6, 2006. A Notice of Abandonment was mailed on January 8, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NOV 16 2004

Paper No. 11

In re Application of	:	
Michael S. Gzybowski *et al*	:	DECISION ON PETITION
Application No. 10/274,796	:	
Filed: October 21, 2002	:	
Attorney Docket No. 2552-016CON	:	

This is a decision on the petition filed by facsimile transmission on July 20, 2004 by which petitioners are requesting withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to the Office letter dated September 12, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

The record shows that a change of correspondence address was filed on April 8, 2003 and entered. However, the new correspondence address was not properly entered, resulting in correspondence being sent to an incorrect address. Due to this Office error, it is clear, as alleged by petitioners, that petitioners did not receive the Office letter in question.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. It appears that the correspondence address is now correct in Office records. Therefore, this application is being forwarded to the Head Supervisory Applications Examiner to re-mail the Office letter dated September 12, 2003, together with all attachments thereto. The date for filing a reply to the re-mailed Office letter will run three months from the date of the re-mailing, subject to extensions of time under 37 CFR 1.136(a). Failure to file a timely reply will result in abandonment. In no case may the time for reply be extended to run more than six months from the date of re-mailing. See 35 USC § 133.

PETITION GRANTED.

E. Rollins Cross, Director
Technology Center 3700

Michael S. Gzybowski
832 Earhart Road
Ann Arbor, MI 48105

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INTELLECTUAL PROPERTY GROUP
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28TH FLOOR
COLUMBUS, OH 43215

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OFFICE OF PETITIONS

In re Application of	:	
Ting	:	
Application No. 10/274,801	:	Decision on Petition
Filed: October 21, 2002	:	
Attorney Docket No. 3994994-131915	:	

This a decision on the petition under 37 CFR 1.137(b), filed October 4, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed March 11, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on June 12, 2004.

The instant petition requests revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. Accordingly, since the $950 extension of time fee submitted with the petition on October 4, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The examiner will be informed of the instant decision so that prosecution of the application may continue.

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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In re Application of He	:	
Application No. 10/274,801	:	Decision on Petition
Filing Date: October 21, 2002	:	
Attorney Docket No. 3994994-13195	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 2, 2008, 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 25, 2007, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on Tuesday, November 27, 2007. A Notice of Abandonment was mailed on April 7, 2008.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) the reply required to the outstanding Office action or notice, unless previously filed,
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Requirement (1) has been met. Petitioner has submitted a reply to the final Office action in the firm of a RCE and amendment.

Requirement (2) has been met. The petition fee of $1,540 has been charged to petitioner's deposit account.

Requirement (3) has been met. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Requirement (4) has been met. Since the application was filed after June 8, 1995, a terminal disclaimer is not necessary.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 1797 will be informed of the instant decision and the application, including the papers filed May 2, 2008, will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of He :
Application No. 10/274,801 :
Filing Date: October 21, 2002 :
Attorney Docket No. 3994994-13195 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed June 30, 2009, 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 9, 2008, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on January 10, 2009. A Notice of Abandonment was mailed on April 14, 2009.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) the reply required to the outstanding Office action or notice, unless previously filed,
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Requirement (1) has been met. Petitioner has submitted a reply to the non-final Office action in the form of an amendment.

Requirement (2) has been met. The petition fee of $1,620 has been charged to petitioner's deposit account.

Requirement (3) has been met. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Requirement (4) has been met. Since the application was filed after June 8, 1995, a terminal disclaimer is not necessary.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The petition was submitted with a payment of $1,110 for a three-month extension of time. However, payment for an extension of time is unnecessary when reviving an application. Therefore, the Office has credited the $1,110 back to petitioner's deposit account.

Technology Center Art Unit 1797 will be informed of the instant decision and the application, including the papers filed June 30, 2009, will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of Gotoh et al. :
Application No. 10/274,809 :
Filing Date: October 21, 2002 :
Attorney Docket No. S004-4851 :

Decision on Petition

This is a decision on the petition filed March 21, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

Facts:

A Notice to File Missing Parts was mailed on November 21, 2002.

A reply to the Notice was filed December 26, 2002.

A Notice to Incomplete Reply was mailed January 22, 2003. The Notice stated "Replacement claim(s) commencing on a separate sheet in compliance with 37 CFR 1.75(h) and 1.121 is required."

A reply to the new Notice was not filed.

A Notice of Abandonment was mailed on March 10, 2006.

Petitioner contends the Notice of Incomplete Reply was never received.

Request for additional evidence of non-receipt of Notice of Incomplete Reply:

Per MPEP 711.03(c)(I)(A),

> 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. For example, if a three-month period for reply was set in the non-received Office action, a

copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action.

The current evidence fails to include the information listed above. Therefore, the petition will not be granted at this time.

The claims:

Unfortunately, the facsimile transmission of the new claims has resulted in degradation of the image quality of the claims filed June 21, 2006. The Office requests a new copy of the claims be *mailed* with any request for reconsideration.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of Gotoh et al. :
Application No. 10/274,809 :
Filing Date: October 21, 2002 :
Attorney Docket No. S004-4851 :

Decision on Petition

This is a decision on the petition filed March 21, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

Facts:

A Notice to File Missing Parts was mailed on November 21, 2002.

A reply to the Notice was filed December 26, 2002.

A Notice to Incomplete Reply was mailed January 22, 2003. The Notice stated "Replacement claim(s) commencing on a separate sheet in compliance with 37 CFR 1.75(h) and 1.121 is required."

The Notice of Incomplete Reply did not set a new time period for reply. The Notice stated, "The period of reply remains as set forth in the Notice [to File Missing Parts].

A Notice of Abandonment was mailed on March 10, 2006, indicating the application was abandoned as the result of the Office receiving no reply to the Notice to File Missing Parts. However, the application became abandoned as the result of a failure to receive a proper reply.

Analysis:

The petition fails to establish a *proper* reply was submitted in response to the Notice to File Missing Parts.

The page of claims starts with the following language:

> [Designation of Document] SPECIFICATION
> [Title of Invention] HYDRAULIC DYNAMIC BEARING AND SPINDLE MOTOR

37 CFR 1.75(h) (emphasis added):

> The claim or claims must commence on a separate physical sheet or electronic page. Any sheet including a claim or portion of a claim may not contain any other parts of the application *or other material.*

37 CFR 1.71(f) (emphasis added):

> Each sheet including part of the specification may not include other parts of the application *or other information.*

Since information other than claims is included on the page of claims, the Office of Petitions will not vacate the Notice of Incomplete Reply or Notice of Abandonment.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($750 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form is enclosed for petitioner's convenience.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

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OFFICE OF PETITIONS

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In re Application of Gotoh et al.	:	
Application No. 10/274,809	:	Decision on Petition
Filing Date: October 21, 2002	:	
Attorney Docket No. S004-4851	:	

This is a decision on the petition filed March 21, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **granted.**

A Notice of Abandonment was mailed on March 10, 2006.

Petitioner has established the holding of abandonment is improper.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The Office of Initial Patent Examination will be informed of the instant decision and will take steps to prepare the application for examination in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Chicago, Illinois 60610

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JAN 30 2007

OFFICE OF PETITIONS

In re Application of
Dennis et al.
Application No. 10/274,829
Filed: October 21, 2002
Attorney Docket NO. 11509/12

: DECISION HOLDING PTA REQUEST
:IN ABEYANCE UNTIL AFTER ISSUE
:DATE

This decision is in response to applicants' REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR 1.705(b) [1] timely filed on July 19, 2006 requesting that the Office adjust the PTA at the time of the mailing of the notice of allowance to at least 663 days.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other 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.

Applicants are reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions*; *Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

---

[1]Issue fee paid on July 19, 2006.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

After the mailing of this decision, this application will be forwarded to the Office of patent publications for a prompt issuance of the patent. The Office apologizes for any delays in this decision and notes that any delays in issuing the application within four months of the payment of the issue fee and all other requirements being satisfied will be added to the determination that is mailed with the issue notification letter.

The Office has assessed the $200.00 fee required of this request. No additional fees are required in considering this matter.

Any questions should be directed to Kery A. Fries, Senior Legal Advisor, at 571-272-7757.

Kery A Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of:
Deckard et al.
Application No. 10/274,840
Filed: May 24, 2002
Docket No.: B-3625NP 620228-6

ON PETITION

This application has been referred to this office in view of the petition filed September 6, 2006, requesting extraordinary relief under 37 CFR 1.182 from, or in the alternative, supervisory review under 37 CFR 1.181 of, the examiner's refusal to admit the amendments filed March 21, (sic, 27), 2006.

The petition considered solely with respect to 37 CFR 1.182 is **dismissed as immaterial**.

Petitioner is reminded that 37 CFR 1.182 applies only when no other rule speaks to the question and is not a mechanism for avoiding the established rules and procedures. See Hicks v. Costello, 1903 Dec. Comm'r Pat. 123, 125 (1903). Petitioner appears to overlook that per MPEP 1002.02(c), ¶(3)(g) , the Group Director is, under 37 CFR 1.181, the first level reviewing official of any action or inaction of the examiner, and not the Office of Petition. Since 37 CFR 1.182 speaks to the issue herein, then 37 CFR 1.182 by its express terms is inapplicable.

It is noted, without deciding the issue, that the Notice of Allowability mailed April 10, 2007, indicated that the application had been allowed in reliance on the amendment filed September 6, 2006. Accordingly, petitioner should carefully check to see if there remains any issue of non-entry requiring review by the Group Director, and if so, he should promptly renew the petition under 37 CFR 1.181 before the Group Director.

This allowed application is being referenced to the Office of Publications.

Telephone inquiries related to this communication should be directed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

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Paper No: 7

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HOFFMANN & BARON, LLP
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SYOSSET NY 11791

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MAY 23 2003

OFFICE OF PETITIONS

In re Application of
Ashley, et al. :
Application No. 10/274,841 : ON PETITION
Filed: 18 October, 2002 :
Attorney Docket No. 512-30 CIP IV :

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47[1] filed on 21 April, 2003.

Petitioner has shown that, while the other several inventors have signed the oath/declaration, the non-signing inventor **Joseph J. Hlavka** (Mr. Hlavka) has refused or otherwise failed to join in the filing of the above-identified application after having been presented with the application papers.

Specifically, the declaration/statement/submission of facts of/by Susan A. Sipos (Reg. No. 43,128) establishes that the non-signing inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond positively to the request that he sign the declaration or in fact sign said declaration.

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(c) The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being forwarded to OIPE for processing as necessary to reflect the instant decision, and then will be forwarded to Technology Center 1600 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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Paper No: 7

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SYOSSET NY 11791

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OFFICE OF PETITIONS

In re Application of
Ashley, et al. :
Application No. 10/274,841 : ON PETITION
Filed: 18 October, 2002 :
Attorney Docket No. 512-30 CIP IV :

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47[1] filed on 21 April, 2003.

Petitioner has shown that, while the other several inventors have signed the oath/declaration, the non-signing inventor **Joseph J. Hlavka** (Mr. Hlavka) has refused or otherwise failed to join in the filing of the above-identified application after having been presented with the application papers.

Specifically, the declaration/statement/submission of facts of/by Susan A. Sipos (Reg. No. 43,128) establishes that the non-signing inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond positively to the request that he sign the declaration or in fact sign said declaration.

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(c) The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

Application No. 10/274,841

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage..

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being forwarded to OIPE for processing as necessary to reflect the instant decision, and then will be forwarded to Technology Center 1600 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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Paper No. None

Irving N. Feit, Esq.
HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset NY 11791

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SEP 22 2006
OFFICE OF PETITIONS

In re Application of :
Robert A. Ashley et al. :
Application No. 10/274,841 :
Patent No. 6,946,453 :
Filed: October 18, 2002 :
Issue Date: September 20, 2005 :
Attorney Docket No.: 512-30 CIP :
IV :
Title: NOVEL 4-DEDIMETHYLAMINOTETRACYCLINE DERIVATIVES

DECISION ON PETITION
UNDER 37 C.F.R. §1.28(c)

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR §1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR §1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR §1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR §1.28 is hereby accepted. The petition is **GRANTED** accordingly.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded

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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that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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DARBY & DARBY P.C.
P.O. BOX 5257
NEW YORK, NY 10150-5257

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SEP 08 2005

OFFICE OF PETITIONS

In re Application of
Weiyue Lu et al
Application No. 10/274,854
Filed: October 17, 2002
Attorney Docket No. 2291/0M186

: DECISION DISMISSING PETITION
: UNDER 37 CFR 3.81(b)

This is a decision on the petition, filed June 16, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to add an assignee's names on the Issue Fee Transmittal Form PTOL-85(b) so that the Letters Patent will issue to the assignees.

The request is **dismissed**.

Petitioner states that the correct assignees' names are Shanghai Pharmco Research, Inc. and Fudan University. Fudan University was unintentionally not included on Fee Transmittal Form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner herein requests that the patent issue to Shanghai Pharmco Research, Inc. and Fudan University.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The instant request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). As petitioner has failed to comply with the provisions of 37 CFR 3.81(a), the request cannot be granted.

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[1] *See* Official Gazette of June 22, 2004

A review of Office database assignment records reflects that an assignment to Shanghai Pharmco Research, Inc. and Fuban University has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that Shanghai Pharmco Research, Inc. and Fuban University were the assignees of record at the time of issuance of the instant application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of the instant application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth Shanghai Pharmco Research, Inc. and Fuban University, as the assignees.** *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in the instant request. A copy of this decision **must** accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in the instant request, as this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Alternatively, if petitioner desires to have the correct assignee data appear on the front page of the Letters Patent, petitioner may wish to consider filing a petition to withdraw the subject application from issue under 37 CFR 1.313(c)(2). The petition to withdraw from issue under 37 CFR 1.313(c)(2) must be accompanied by a request for continued examination (RCE) and submission (which may be a request under 37 CFR 3.81(b)).

Inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210. After the submission by petitioner of the request for a certificate of correction to correct the assignee data on the front page of the Letters Patent, any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Irvin Dingle
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DARBY & DARBY, P.C.
P.O. BOX 5257
NEW YORK, NY 10150-5257

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OFFICE OF PETITIONS

In re Application of	:	
Weiyue Lu et al	:	
Application No. 10/274,854	:	ON PETITION
Filed: October 17, 2002	:	
Attorney Docket No. 02291/0M186	:	

This is a decision on the petition filed September 1, 2004, which is being treated as a petition under 37 CFR 3.81(b)[1] to add the assignee's name on the front page of the above-identified patent.

The petition is **dismissed.**

Petitioner submitted a "PETITION (37 CFR 1.183) AND REQUEST FOR PATENT TO ISSUE WITH CORRECTED INFORMATION PURSUANT TO RULE 3.81(b)". 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 an 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*. Patent and Trademark Office assignment records disclosed that an assignment was recorded on August 4, 2004, after the date of issuance of this patent. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper. Note also MPEP Section 307.

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] See Official Gazette of June 22, 2004

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By Facsimile: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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October 12, 2006

Flynn Barrison
DARBY & DARBY, P.C.
P. O. Box 5257
New York, NY 0150-5257

Patent No.: **7005426 B2**
Application No.: **10/274854**
Inventor(s): **Weiyue Lu, et al.**
Issued: February 28, 2006
Title: **FOLIC ACID-POLYSACCHARIDE COMPLEX, ITS PREPARRATION METHOD AND PHARMACEUTICAL COMPOSITION CONTAINING THE SAME AS ACTIVE COMPONENT**

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.

Virginia Tolbert
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext 113** or (703) 308-8309

vt

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DARBY & DARBY P.C.
POST OFFICE BOX 5257
NEW YORK, NY 10150-5257

In re Patent No. 7,005,426	:	
Issue Date: February 28, 2006	:	
Application No. 10/274,854	:	ON PETITION
Filed: October 17, 2002	:	
Attorney Docket No. 2291/0M186	:	

This is a decision on the petition filed March 27, 2006, which is being treated as a petition under 37 CFR 3.81(b)[1] to add assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8-27-07 **Paper No.:** _____

TO SPE OF : ART UNIT ------

SUBJECT : Request for Certificate of Correction for Appl. No. 7063725-B2 (10/274856

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**.

Claims (Claim 20 + Claim 28) (discrepancy)

E. M. James
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Cuvi McDu
SPE

3738
Art Unit

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WESTERMAN HATTORI DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Hideaki Ohashi :
Application No. 10/274,876 :
Filed: October 22, 2002 :
Attorney Docket No. 021391

This is a decision on the petition, filed March 19, 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 22, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2813 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

ZARLEY LAW FIRM PLC
CAPITAL SQUARE
400 LOCUST, SUITE 200
DES MOINES, IA 50309-2350

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DEC 2 0 2002

OFFICE OF PETITIONS

In re Application of	:	
Christian Jessen et al	:	
Application No. 10/274,905	:	NOTICE
Filed: October 21, 2002	:	
Attorney Docket No. P06483USO	:	

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 Division.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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JUN 19 2009
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In re Patent No. 7,325,235 :
Issued: January 29, 2008 : LETTER REGARDING PTA and
Application No. 10/274,924 : NOTICE OF INTENT TO ISSUE
Filed: October 22, 2002 : CERTIFICATE OF CORRECTION
Atty. Dkt. No.: 00862.022795. :

This decision is in response to the "COMMENTS ON DETERMINATION OF TERM ADJUSTMENT," filed March 13, 2008. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The above-identified application matured into U.S. Patent No. 7,325,235 on January 29, 2008. The patent issued with a patent term adjustment (PTA) of 727 days. Patentees indicate that the "data presently available from the PAIR system appears to indicate an incorrect number of days determined for the USPTO Delay and/or for the Applicants' Delay.

The calculation of adjustment has been reviewed and found to contain error. The correct adjustment at the time of issuance is 696 days.

As previously determined, the patent is entitled to an adjustment of 869 days in accordance with 37 CFR 1.702(a). The adjustment was properly reduced five days under 37 CFR 1.704(b) in connection with the RCE filed August 7, 2006. The adjustment was properly reduced 17 days in accordance with 37 CFR 1.704(c)(8) in connection with the IDS filed March 2, 2007.

As pointed out by patentees, a review of the record reveals an incorrect period of reduction in connection with the drawings and IDS filed April 24, 2007. The adjustment is properly reduced 31 days, and not 120 days, in accordance with 37 CFR 1.704(c)(10)(i). The reduction commenced April 24, 2007, the date that the drawing and IDS were filed, and ended May 24, 2007, the date that a reply was mailed in response thereto.

As pointed out by patentees, the Office neglected to assess a reduction in connection with the IDS filed July 27, 2007. In accordance with 37 CFR 1.704(c)(10)(ii), the adjustment is

properly reduced 120 days. The reduction commenced July 27, 2007, the date that the IDS was filed, and ended four months, or 120 days, later.

Accordingly, at the time of issuance, the patent was entitled to an adjustment of 696 days (adjustment totaling 869 days less reduction of 173 days).

No additional fee has been assessed in connection with this matter.

Any request for reconsideration of this matter must be submitted within THIRTY DAYS. Extensions of time under 37 CFR 1.136 are not permitted.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 696 days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,325,235 B2
DATED	:	January 29, 2008
INVENTOR(S)	:	Iida, 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 727 days

Delete the phrase "by 727 days" and insert – by 696 days--

Day : Thursday
Date: 6/18/2009

PALM INTRANET

Time: 16:10:55

PTA Calculations for Application: 10/274924			
Application Filing Date:	10/22/2002	PTO Delay (PTO):	869
Issue Date of Patent:	01/29/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	142
Post-Issue Petitions:	0	Total PTA (days):	696
PTO Delay Adjustment:	-31		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
83	06/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	120		
82	06/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		120	
81	06/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		31	
76.5	01/09/2008	PTA 36 MONTHS			
76	01/29/2008	PATENT ISSUE DATE USED IN PTA CALCULATION	158		54
75	12/27/2007	EXPORT TO FINAL DATA CAPTURE			
74	12/21/2007	FINISHED INITIAL DATA CAPTURE			
73	12/26/2007	DISPATCH TO FDC			
72	04/24/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
71	04/24/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
70	04/24/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
69	12/11/2007	WORKFLOW - QUERY REQUEST - FINISH			
68	12/05/2007	TC RETURN TO PUBS			
67	12/05/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
66	12/04/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
64	05/24/2007	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
63	05/23/2007	RESPONSE TO AMENDMENT UNDER RULE 312			
62	04/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
61	04/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

60.7	04/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	67
60	04/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
59	04/24/2007	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		0	64
58	04/23/2007	PUBS CASE REMAND TO TC			
57	05/01/2007	WORKFLOW - QUERY REQUEST - BEGIN			
56	04/25/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
55	04/24/2007	WORKFLOW - DRAWINGS FINISHED		120	67
54	04/24/2007	ISSUE FEE PAYMENT VERIFIED			
53	04/24/2007	ISSUE FEE PAYMENT RECEIVED			
52	04/13/2007	EXPORT TO INITIAL DATA CAPTURE			
51	04/09/2007	MAIL NOTICE OF ALLOWANCE			
50	04/09/2007	MAIL EXAMINER'S AMENDMENT			
49	04/09/2007	MAIL EXAMINER'S AMENDMENT			
48	04/09/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
47	04/06/2007	ISSUE REVISION COMPLETED			
46	04/03/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
45	04/03/2007	DOCUMENT VERIFICATION			
44	03/14/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
43	04/03/2007	EXAMINER'S AMENDMENT COMMUNICATION			
42	03/26/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
41	03/14/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
40	03/19/2007	EXAMINER'S AMENDMENT COMMUNICATION			
39	03/19/2007	NOTICE OF ALLOWABILITY			
38	12/05/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
37	03/02/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
36	03/02/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		17	34
35	02/22/2007	DATE FORWARDED TO EXAMINER			
34	02/13/2007	RESPONSE AFTER NON-FINAL ACTION			

33	12/05/2006	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
32	11/13/2006	MAIL NON-FINAL REJECTION			
31	10/27/2006	NON-FINAL REJECTION			
30	10/16/2006	CASE DOCKETED TO EXAMINER IN GAU			
29	08/15/2006	DATE FORWARDED TO EXAMINER			
28	08/07/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
27	08/15/2006	DATE FORWARDED TO EXAMINER			
26	08/07/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		5	23
25	08/15/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
24	08/07/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
23	05/02/2006	MAIL FINAL REJECTION (PTOL - 326)			
22	05/01/2006	FINAL REJECTION			
21	03/10/2006	DATE FORWARDED TO EXAMINER			
20	03/02/2006	RESPONSE AFTER NON-FINAL ACTION			
19	12/02/2005	MAIL NON-FINAL REJECTION	711		-1
18	11/28/2005	NON-FINAL REJECTION			
17	10/31/2005	CASE DOCKETED TO EXAMINER IN GAU			
16	10/19/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	10/03/2005	CASE DOCKETED TO EXAMINER IN GAU			
14	11/12/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	12/05/2002	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
12	12/16/2003	CASE DOCKETED TO EXAMINER IN GAU			
11	12/05/2002	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
10	06/17/2003	CASE DOCKETED TO EXAMINER IN GAU			
9	06/10/2003	TRANSFER INQUIRY TO GAU			
8	01/03/2003	APPLICATION DISPATCHED FROM OIPE			
7	01/03/2003	APPLICATION IS NOW COMPLETE			
5	12/16/2002	ADDITIONAL APPLICATION FILING FEES			
4	12/16/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
3	11/21/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			

2	10/28/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/22/2002	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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233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606-6357

MAILED
JUN 24 2010
OFFICE OF PETITIONS

In re Patent No. 7,122,654	:	
Issue Date: October 17, 2006	:	
Application No. 10/274,953	:	ON PETITION
Filed: October 22, 2002	:	
Attorney Docket No. 28967/5454G	:	

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 application is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

A. Kelley

Alicia Kelley
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. None

HARRITY SNYDER, LLP
11350 Randon Hills Road
SUITE 600
FAIRFAX VA 22030

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JUN 0 5 2006
OFFICE OF PETITIONS

In re Application of
Ming-Ren Lin et al.
Application No. 10/274,961
Filed: October 22, 2002
Attorney Docket Number: H1101
Title: DOUBLE AND TRIPLE GATE MOSFET DEVICES AND METHODS FOR MAKING SAME

DECISION ON PETITION
UNDER 37 C.F.R. §1.181

This is a decision on the petition filed February 16, 2005, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The Office regrets the period of delay in issuing this 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 May 19, 2004, which set a shortened statutory period for reply of three (3) months. An after-final amendment was received on July 6, 2004, and an advisory action was mailed on July 27, 2004. No extensions of time under the provisions of 37 CFR §1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on August 20, 2004. A notice of abandonment was mailed on February 9, 2005.

With the present petition, Petitioner has asserted that a response to this communication was submitted on August 13, 2004. Petitioner has submitted a copy of this submission, which constitutes a (A Request for Continued Examination (RCE), and it is noted that it fails to contains a certificate of mailing. However, Petitioner has also provided a postcard receipt which has been date-stamped by the Office of Initial Patent Examination (OIPE), and evinces that an RCE was received in the Office on August 13, 2004. A review of the Patent Application Location and Monitoring (PALM) software indicates that payment of the RCE fee ($770) was received in the Office on this date.

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 copy of the RCE which was received with the present petition can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 5

Hunton and Williams
Intellectual Property Department
1900 K Street, N.W., Suite 1200
Washington, DC 20006-1109

MAILED

JUL 0 8 2003

Technology Center 2100

In re Application of: Joseph L. Stern Application No. 10/274,975 Filed: October 22, 2002 For: SYSTEM AND METHOD FOR CUSTOMIZING AN INTERFACE RELATED TO ACCESSING, MANIPULATING AND VIEWING INTERNET AND NON-INTERNET RELATED INFORMATION	)))))))))	DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(c) AND MPEP § 708.02 (IV): APPLICANT'S AGE

This is a decision on the petition, filed March 13, 2003, under 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(IV): Applicant's Age, to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a copy of Joseph Stern's drivers license listing applicant's date of birth as February 27 1923, establishing thereby that applicant is sixty five (65) years of age or more. Accordingly, the petition is **GRANTED.**

The application is being forwarded to the Examiner for expedited prosecution.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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MAR 2 7 2003

Technology Center 2100

Paper No. 3

Hunton and Williams
Intellectual Property Department
1900 K Street, N.W., Suite 1200
Washington, DC 20006-1109

In re Application of: Joseph L. Stern	)	
Application No. 10/274,976	)	
Filed: October 22, 2002	)	
For: SYSTEM AND METHOD FOR ACCESSING, MANIPULATING AND VIEWING INTERNET AND NON-INTERNET RELATED INFORMATION AND FOR CONTROLLING NETWORKED DEVICES	)	DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(c) AND MPEP § 708.02 (IV): APPLICANT'S AGE

This is a decision on the petition, filed March 13, 2003, under 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(IV): Applicant's Age, to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a copy of Joseph Stern's drivers license listing applicant's date of birth as February 27 1923, establishing thereby that applicant is sixty five (65) years of age or more. Accordingly, the petition is **GRANTED.**

The application is being forwarded to the examiner for expedited prosecution.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 306-4160

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COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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MAR 2 7 2003

Technology Center 2100

Paper No. 3

Hunton and Williams
Intellectual Property Department
1900 K Street, N.W., Suite 1200
Washington, DC 20006-1109

In re Application of: Joseph L. Stern	)	
Application No. 10/274,977	)	
Filed: October 22, 2002	)	
For: SYSTEM AND METHOD FOR CONTROLLING NETWORKED DEVICES AND ACCESSING, MANIPULATING AND VIEWING INTERNET AND NON-INTERNET RELATED INFORMATION THROUGH MULTIPLE SESSIONS	)	DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(c) AND MPEP § 708.02 (IV): APPLICANT'S AGE

This is a decision on the petition, filed March 13, 2003, under 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(IV): Applicant's Age, to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a copy of Joseph Stern's drivers license listing applicant's date of birth as February 27 1923, establishing thereby that applicant is sixty five (65) years of age or more. Accordingly, the petition is **GRANTED.**

The application is being forwarded to the examiner for expedited prosecution.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 306-4160

#3
DW

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NOV 18 2003

HARNESS, DICKEY & PIERCE, PLC
PO BOX 8910
RESTON, VA 20195

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NOV 18 2003

OFFICE OF THE DIRECTOR
TC 3600

In re Application of	:	
Steven Shih	:	
Serial No. 10/274,984	:	NOTICE OF WITHDRAWAL
Filed October 22, 2002	:	FROM ISSUE
For: WHEEL ASSEMBLY WITH	:	UNDER 37 CFR 1.313(b)
SPOKE-COVERING MEMBERS	:	

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 Stormer at (703) 308-3768.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Robert Oberleitner, Director
Technology Center 3600

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MD 200-9
SUGAR LAND, TX 77478

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Jul Amado et al.
Application No. 10/275,016
Filed: May 6, 2003
Attorney Docket No. 17.0233

This is a decision on the petition, filed November 15, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

An office communication was mailed March 18, 2005. A response was due not later than April 18, 2005. A response in the form of an amendment was filed May 12, 2005 with a one month extension of time request. However, on June 6, 2005 a Notice of Non-Compliant Amendment was mailed. A second response filed July 6, 2005 was also non-compliant under 37 CFR 1.121, and in an office communication, "Failure to Acceptably Respond to Notice of Non-Compliant Amendment" mailed September 21, 2005, petitioner was advised. No new time period for reply was provided with the September 21, 2005 "Notice" and thus the application became abandoned.

A Notice of Abandonment was mailed September 26, 2005.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

(3) a statement that the entire delay in filing the required reply from the due date

for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

A supplemental amendment is submitted with the petition to revive.

This matter is being referred to Technology Center 1724 for processing of the amendment filed November 15, 2005.

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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Commissioner for Patents
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P.O. Box 1450
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James W Kayden
Thomas Kayden Horstemeyer & Risley
Suite 1750
100 Galleria Parkway NW
Atlanta GA 30339-5948

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OFFICE OF PETITIONS

In re Application of :
Benchetrit :
Application No. 10/275,019 : ON PETITION
Filed: June 26, 2003 :
Attorney Docket No. 80350-1080 :
For: ADJUSTABLE GASTROPLASTRY
RING COMPRISING A GRIP TAB

This is a decision on the petition under 37 CFR 1.137(b), filed on February 21, 2007 (certificate of mailing date February 15, 2007) to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is not a final agency decision.

This application became abandoned for failure to properly respond to the final Office action mailed June 15, 2006, which set an extendable three month period for reply. Applicant filed a three month extension of time and an amendment after final on December 18, 2006 (certificate of mailing date December 15, 2006). The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the January 12, 2007 Advisory action. Accordingly, this application became abandoned on December 16, 2006. A Notice of Abandonment was mailed on January 16, 2007.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed.;

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not appear to satisfy requirement (2) above.

The large entity fee for filing a petition to revive an unintentionally abandoned application under 37 CFR 1.137(b) is set forth in 37 CFR 1.17(m) as $1,500.00. A review of Office records indicates that applicant has consistently paid large entity fees. The RCE fee submitted on January 5, 2007 was paid at the large entity rate. However, the Rule 137(b) petition fee was paid at the small entity rate. The Office would like clarification as to entity status.

The payment of the full petition fee is a prerequisite to the filing of a petition to revive under 37 CFR 1.137(b). This requirement cannot be waived. MPEP 711.03(c)(III)(B). Therefore, consideration of the merits of the petition before receipt of the full petition fee is prohibited.

Petitioner should clarify entity status and, if appropriate, submit the balance due on the petition fee promptly.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 – ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

James W Kayden
Thomas Kayden Horstemeyer & Risley
Suite 1750
100 Galleria Parkway NW
Atlanta GA 30339-5948

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OFFICE OF PETITIONS

In re Application of
Benchetrit
Application No. 10/275,019
Filed: June 26, 2003
Attorney Docket No. 80350-1080
For: ADJUSTABLE GASTROPLASTRY RING COMPRISING A GRIP TAB

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on September 10, 2007 (certificate of mailing date September 7, 2007) to revive the above-identified application.

This application became abandoned for failure to properly respond to the final Office action mailed June 15, 2006, which set an extendable three month period for reply. Applicant filed a three month extension of time and an amendment after final on December 18, 2006 (certificate of mailing date December 15, 2006). The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the January 12, 2007 Advisory action. Accordingly, this application became abandoned on December 16, 2006. A Notice of Abandonment was mailed on January 16, 2007.

Applicant has submitted a RCE and required fee and amendment in reply to the June 15, 2006 final Office action, a proper statement of the unintentional nature of the delay in responding to the June 15, 2006 final Office action, and the required petition fee.

The petition is **GRANTED**.

Office records have been updated to show that applicant is a small entity. No fees previously paid will be refunded.

After the mailing of this decision the application will be forwarded to Technology Center AU 3733 for consideration of the RCE filed on January 5, 2007 and the amendment previously filed on December 18, 2006 (certificate of mailing date December 15, 2006).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

Mail Date: 04/21/2010

Applicant	: Walter Guenter	: DECISION ON REQUEST FOR
Patent Number	: 7648608	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/275,029	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/31/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCCORMICK PAULDING & HUBER
185 ASYLUM STREET
CITYPLACE II
HARTFORD, CT 06103

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OFFICE OF PETITIONS

In re Application of :
Narimichi Takei, et al. :
Application No. 10/275,031 :
Filed: October 31, 2002 :
Attorney Docket No. 5744-08WOUS :

ON PETITION

This is a decision on the petition, filed January 28, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 3, 2004, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later).

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application is being referred to Technology Center AU 1762 for consideration of the response filed January 28, 2005.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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HOWSON & HOWSON LLP
501 OFFICE CENTER DRIVE
SUITE 210
FORT WASHINGTON, PA 19034

Mail Date: 05/04/2010

Applicant	: Michel D. Faupel	: DECISION ON REQUEST FOR
Patent Number	: 7615354	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/275,041	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/30/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2023** 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.

04 MAR 2004

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Judith L. Toffenetti
McDermott, Will & Emery
600 13th Street, N.W.
Washington, DC 20005-3096

In re Application of JOLLEZ, et al. U.S. Application No.: 10/275,077 PCT No.: PCT/CA01/00616 Int. Filing Date: 02 May 2001 Priority Date: 02 May 2000 Attorney Docket No.: 44117-134 For: PRODUCTION OF HIGH GRADE AND HIGH CONCENTRATION OF FREE FATTY ACIDS FROM RESIDUAL OILS, FATS AND GREASES	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's "Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181 And Submission of Declaration and Associate Power of Attorney" filed 25 February 2004.

BACKGROUND

On 02 May 2001, applicant filed international application PCT/CA01/00616, which claimed priority of an earlier application filed 02 May 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 08 November 2001. The deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 02 November 2002.

On 01 November 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a translation of the international application into English; an Information Disclosure Statement and a First Preliminary Amendment.

On 28 May 2003, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International Application number and international filing date. In addition, applicant was advised of the need to pay the surcharge for providing an oath or declaration of the inventor later than thirty months from the priority date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 28 December 2003, the present application became abandoned as to the United State of America for failure to timely respond to the Form PCT/DO/EO/905 mailed 28 May 2003. On 25 February 2004, applicant filed the present petition to withdraw the holding of abandonment accompanied by a signed "Declaration For Patent Application."

DISCUSSION

The Official Gazette, at 1156 OG 53, provides that a petition requesting relief based on the grounds that an Office action was not received must be accompanied by a statement that (1) the Office action was not received, (2) attests that a search of the file jacket indicates the Office action was not received, (3) attests that a search of counsel's docket records indicates the Office action was not received and (4) the Petition must also be accompanied by copies of the docket records where the non-received Office action would have been entered. (See also, Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971). Applicant has satisfied items (1) - (3) above.

Regarding item (4), it is not clear from the docket records provided that the enclosed pages reflect where the purported non-received Office action would have been entered. It appears that applicant has provided a copy of the firm's docketing system for applications with action due on 29 July 2003 instead of 28 July 2003. The exhibit is entitled "Patent Due Date List By Date" and subtitled "From 29-Jul-03 To 29-Jul-03." In addition, the second item on the facsimile page "032/047", application 10/395,888 identifies a "US-Missing Parts 2 Months" with an "Action Base Date" of 29-May-03 and a due date of 29-Jul-03. A review of USPTO records confirms that the mail date for this item was 29 May 2003 whereas the Form PCT/DO/EO/905 in the present case was mailed on 28 May 2003 and had a due date of 28 July 2003. Thus, it seems that an incorrect set of docket records were provided. As such, it is not possible to grant applicant's petition at this time.

In addition, applicant is advised that the filed declaration does not comply with 37 CFR 1.497 in that it fails to list and provide the signature of the first named inventor in the published international application, Paul JOLLEZ. Applicant has not provided any evidence that inventor JOLLEZ was removed from the international application pursuant to rule 92bis or in the national stage under 37 CFR 1.497(d). Absent such a showing a newly executed declaration will be required in order for national stage processing to continue.

CONCLUSION

For the reasons detailed above, applicant's petition under 37 CFR 1.181 is **DISMISSED**.

This application remains **ABANDONED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Extensions of time may be

obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

10 JUN 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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600 13th Street, N.W.
Washington, DC 20005-3096

In re Application of JOLLEZ, et al. U.S. Application No.: 10/275,077 PCT No.: PCT/CA01/00616 Int. Filing Date: 02 May 2001 Priority Date: 02 May 2000 Attorney Docket No.: 44117-134 For: PRODUCTION OF HIGH GRADE AND HIGH CONCENTRATION OF FREE FATTY ACIDS FROM RESIDUAL OILS, FATS AND GREASES	DECISION ON RENEWED PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's "Petition For Reconsideration of Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181 And Declaration" filed 29 April 2004.

BACKGROUND

On 04 March 2004, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.181. Applicant was afforded two months to file any request for reconsideration.

On 29 April 2004, applicant filed the present renewed petition to withdraw the holding of abandonment accompanied by a signed "Declaration For Patent Application."

DISCUSSION

As detailed in the decision mailed 04 March 2004, the Official Gazette, at 1156 OG 53, provides that a petition requesting relief based on the grounds that an Office action was not received must be accompanied by a statement that (1) the Office action was not received, (2) attests that a search of the file jacket indicates the Office action was not received, (3) attests that a search of counsel's docket records indicates the Office action was not received and (4) the Petition must also be accompanied by copies of the docket records where the non-received Office action would have been entered. (See also, Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971). Applicant previously satisfied items (1) - (3) above.

Regarding item (4), an examination of the filed papers finds that applicant has currently provided a copy of the firm's docketing system for applications with action due on 28 July 2003. The subject "Notification of Missing Requirements" is not listed. Thus, applicant has satisfied all

four items listed above and it is proper to grant applicant's renewed petition at this time.

The decision of 04 March 2004 advised applicant that the filed declaration did not comply with 37 CFR 1.497 in that it failed to list and provide the signature of the first named inventor in the published international application, Paul JOLLEZ. Applicant has presently provided a compliant declaration of the inventors. Further, an examination of the application file finds that applicant has now satisfied all of the requirements for entry into the National stage in the United States.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.181 is **GRANTED**.

The application has an international filing date of 02 May 2001 under 35 U.S.C. 363 and will be given a date of **29 April 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

Derek A. Putonen
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PO BOX 747
FALLS CHURCH VA 22040-0747

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JAN 26 2010

In re Application of	:	
Heimburg et al.	:	
Application No. 10/275,085	:	RESPONSE TO PETITION
Filed: November 1, 2002	:	
Attorney Docket No. 2039-0160P	:	

This is a response to the petition under 37 CFR 1.182, filed September 24, 2009, to remove the RCE transmittal submitted August 21, 2009 from the above-identified application, which is treated as a petition under 37 CFR 1.59(b) to expunge information from the above identified application.

The petition is **dismissed**.

On August 21, 2009 a Request for Continued Examination (RCE) was filed in the above-identified application in response to a final Office action mailed October 21, 2008. The RCE transmittal form erroneously omitted a request for suspension of action under 37 CFR 1.103(c). A correct RCE transmittal form accompanied this petition with a request for a three (3) month suspension of action. Petitioner requests that the RCE transmittal form filed August 21, 2009 now be expunged.

37 CFR 1.59 states in part:

> (a)(1) Information in an application will not be expunged, except as provided in paragraph (b) of this section or § 41.7(a) of this title.
> (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(g) 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. [emphasis added]

The standards for expunging information that is unintentionally submitted in an application, including the standards for establishing that the expungement of the information is appropriate, are discussed in MPEP section 724.05 II. This section states that a petition may be filed under 37 CFR 1.59(b), provided that:

(A) the Office can effect such return prior to the issuance of any patent on the application in issue;
(B) it is stated 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;
(C) the information has not otherwise been made public;
(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
(E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and
(F) the petition fee as set forth in 37 CFR 1.17(g) is included.

Petitioner has not satisfied requirements B-D above. For example, the record does not indicate that irreparable harm would occur if the erroneous RCE transmittal form remains in the file. Accordingly, the petition to remove the form must be dismissed.

Telephone inquiries concerning this communication should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

2 6 JUN 2003

#7

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One Metropolitan Square, 16th Floor
St. Louis, MO 63102

In re Application of MOSKOWITZ	:	
U.S. Application No.: 10/275,098	:	
PCT Application No.: PCT/US01/14645	:	DECISION
Int. Filing Date: 04 May 2001	:	
Priority Date Claimed: 04 May 2000	:	
Attorney Docket No.: DZG 2181.2	:	
For: TGFβ-RII PROMOTER POLYMORPHISMS	:	

This is in response to applicant's "Petition for Filing of Patent Application When Inventor Refuses to Execute Papers Under 35 CFR § 1.47(b)" filed 09 June 2003.

BACKGROUND

On 04 May 2001, applicant filed international application PCT/US01/14645, which claimed priority of an earlier United States application filed 04 May 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 08 November 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 03 December 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 04 November 2002.

On 01 November 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 08 January 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 09 June 2003, applicant filed the present petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(i), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. See 37 CFR 1.47(b).

With regard to item (1) above, the requisite fee has been provided.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The present petition states that the sole inventor David Moskowitz refuses to sign the application papers. Although petitioner has presented evidence of Moskowitz' express oral refusal to sign (see affidavit of Lee Henderson, ¶5), petitioner has not sufficiently established that a bona fide attempt was made to present a complete copy of the application papers (including specification, claims, drawings, and oath/declaration) to Moskowitz for signature. Thus, it cannot be concluded at the present time that Moskowitz refuses to join in the application.

With regard to item (3) above, the petition states the last known address of the nonsigning inventor.

With regard to item (4) above, the declaration submitted with the petition is improper. Specifically, although Lee Henderson is permitted to sign a declaration on behalf of David Moskowitz, Dr. Henderson may not sign the name of David Moskowitz.

With regard to item (5) above, the 37 CFR 1.47(b) applicant must prove that, as of the date the application was deposited in the Patent and Trademark Office, (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 filing of the application. MPEP 409.03(f).

In the present case, item (A) above applies. Petition has submitted documentary evidence of a chain of title from the original owner David Moskowitz to the assignee Viral Therapeutics, Inc.

With regard to item (6) above, petitioner has not made any substantial showing that granting of the petition is necessary to preserve the rights of the parties or to prevent irreparable harm.

CONCLUSION

Because petitioner has not satisfied items (2), (4), and (6) above, the petition under 37 CFR 1.47(b) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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#9

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12 SEP 2003

Edward J. Hejlek
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St. Louis, MO 63102

In re Application of MOSKOWITZ	:	
U.S. Application No.: 10/275,098	:	
PCT Application No.: PCT/US01/14645	:	DECISION
Int. Filing Date: 04 May 2001	:	
Priority Date Claimed: 04 May 2000	:	
Attorney Docket No.: DZG 2181.2	:	
For: TGFβ-RII PROMOTER POLYMORPHISMS	:	

This is in response to applicant's "Renewed Petition for Filing of Patent Application When Inventor Refuses to Execute Papers Under 35 CFR § 1.47(b)" filed 05 August 2003.

BACKGROUND

On 04 May 2001, applicant filed international application PCT/US01/14645, which claimed priority of an earlier United States application filed 04 May 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 08 November 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 03 December 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 04 November 2002.

On 01 November 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 08 January 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 09 June 2003, applicant filed a petition under 37 CFR 1.47(b).

On 26 June 2003, this Office mailed a decision dismissing the 09 June 2003 petition.

On 05 August 2003, applicant filed the present renewed petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(i), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. See 37 CFR 1.47(b).

Applicant has previously satisfied items (1), (3), and (5) above.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that David Moskowitz refuses to sign the application papers. Petitioner has sufficiently shown that a bona fide attempt was made to present a copy of the application papers to Moskowitz for signature (see affidavit of Joel Schwarz, ¶2). Furthermore, petitioner has adequately demonstrated Moskowitz refuses to sign. Specifically, Moskowitz made an express oral refusal to execute the application papers during a telephone conversation with Lee Henderson (see Henderson's affidavit, ¶5). Therefore, it would be reasonable to conclude that Moskowitz refuses to join in the application.

With regard to item (4) above, the declaration submitted with the renewed petition is improper. Specifically, Lee Henderson is improperly listed as the inventor.

With regard to item (6) above, petitioner has made an adequate showing that granting of the petition is necessary to preserve the rights of the parties or to prevent irreparable harm.

CONCLUSION

Because petitioner has not satisfied item (4) above, the renewed petition under 37 CFR 1.47(b) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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06 MAY 2004

#11

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St. Louis, MO 63102

In re Application of MOSKOWITZ	:	
U.S. Application No.: 10/275,098	:	
PCT Application No.: PCT/US01/14645	:	DECISION
Int. Filing Date: 04 May 2001	:	
Priority Date Claimed: 04 May 2000	:	
Attorney Docket No.: DZG 2181.2	:	
For: TGFβ-RII PROMOTER POLYMORPHISMS	:	

This is in response to applicant's "Renewed Petition Under 35 CFR § 1.47(b)" filed 05 May 2004.

BACKGROUND

On 04 May 2001, applicant filed international application PCT/US01/14645, which claimed priority of an earlier United States application filed 04 May 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 08 November 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 03 December 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 04 November 2002.

On 01 November 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 08 January 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 09 June 2003, applicant filed a petition under 37 CFR 1.47(b).

On 26 June 2003, this Office mailed a decision dismissing the 09 June 2003 petition.

On 05 August 2003, applicant filed a renewed petition under 37 CFR 1.47(b).

On 12 September 2003, this Office mailed a decision dismissing the 05 August 2003 petition.

On 17 December 2003, applicant purportedly filed a renewed petition under 37 CFR 1.47(b).

On 05 May 2004, applicant filed a copy of the 17 December 2003 petition.

DISCUSSION

The evidence of record is sufficient to establish that the renewed petition was originally filed on 17 December 2003. Specifically, the copy of the return postcard, which includes the renewed petition in its itemized contents and which bears a USPTO date stamp of 17 December 2003, serves as *prima facie* evidence that the renewed petition was received by the USPTO on 17 December 2003.

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(i), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. See 37 CFR 1.47(b).

Applicant has previously satisfied items (1), (2), (3), (5), and (6) above.

With regard to item (4) above, an appropriate declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor has been submitted.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(b) is GRANTED.

This application has an international filing date of 04 May 2001 and a date under 35 U.S.C. 371(c) of 17 December 2003.

As set forth in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address of record and will be published in the *Official Gazette*.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

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PCT Legal Office

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Facsimile: 703-308-6459

06 MAY 2004

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David Moskowitz
518 Bonhomme Woods Drive
St. Louis, MO 63132

In re Application of MOSKOWITZ
U.S. Application No.: 10/275,098
PCT Application No.: PCT/US01/14645
Int. Filing Date: 04 May 2001
Priority Date Claimed: 04 May 2000
For: TGFβ-RII PROMOTER POLYMORPHISMS

Dear David Moskowitz:

You are named as the inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as the inventor.

As the named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost set forth in 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you choose 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.

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Edward J. Hejlek
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Attorney Docket No.: DZG 2181.2

BEST AVAILABLE COPY

Draft Petition Decision

Serial No. 10/275,098

Date of Draft 6 May 04

Legal Examiner TUNG

Conferee Approval _____

Petitions Book Nos. _____

Petition Log Book No. _____

PALM Petition Code 278

___Charge Account No. _____

Fee _____ Code _____
Fee _____ Code _____
Fee _____ Code _____
Fee _____ Code _____

Granted ✓
Dismissed _____
Dismissed with Recomendation _____

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SUITE 900
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Yamamoto et al.	:	
Application No. 10/275,111	:	
Filed: January 10, 2003	:	ON PETITION
Patent No. 6,852,734	:	
Issued: February 8, 2005	:	
Attorney Docket Number:	:	
200314912-1	:	

This decision is in response to the Petition, filed October 11, 2005, to correct the spelling of two inventors. The petition is properly treated under 37 CFR 1.182.

Applicant files the instant petition to correct the names of inventors Kenzo Harimaya and Yumiko Yanagisawa

The petition is **dismissed**.

Inventor Kenzo Harimaya

Applicant asserts that an inadvertent misspelling on the oath or declaration requires correction of inventor Kenzo Harimaya's name.

Regarding inventor Kenzo Harimaya , two separate statutory requirements must be met before a Certificate of Correction for an applicant's mistake may issue. The first statutory requirement concerns the nature, i.e., type, of the mistake for which a correction is sought. The mistake must be:
(1) of a clerical nature,
(2) of a typographical nature, or
(3) a mistake of minor character.

The second statutory requirement concerns the nature of the proposed correction. The correction must not involve changes which would:
(1) constitute new matter or
(2) require reexamination.

Accordingly, since the request to change the name of inventor inventor Hariyama to Harimaya meets the statutory requirements, the petition may be granted upon the filing of a certificate of correction consistent with this decision.

Inventor Fujihira

Applicant also requests that the name of inventor Yumiko Yanagisawa has changed as a result in the change of her marital status, to Yumiko Fujihira.

"Since amendments are not permitted after the payment of the issue fee (37 CFR 1.312), a petition under 37 CFR 1.182 to change the name of the inventor cannot be granted if filed after the payment of the issue fee." See, MPEP 605.04.

There was no error in inventorship as it relates to inventor Yanagisawa at the time the patent was issued. See 35 U.S.C. § 256 and 37 CFR § 1.324.

Conclusion

A certificate of correction may issue to correct the name of inventor Hariyama to Harimaya; however, as there was no error as it relates to inventor Yanagisawa, no correction is available.

A Certificate of Correction should be filed consistent with this decision.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

PET. DEC.

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: 4/19/05

meb
Paper Number: _____

In re application of
Toshiyuki Hamanaka et al

Serial No. 10/275,121
Filed: November 1, 2002
For: Honeycomb Filter For Exhaust Gas Purification

DECISION ON PETITION

This is a response to the PETITION UNDER 37 C.F.R. 1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT, filed November 23, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of November 12, 2004 for failure to timely pay the issue fee as indicated in Notice of Allowability and Notice of Allowance and Issue Fee Due mailed July 7, 2004, be withdrawn. The petitioner asserts that the Notice of Allowability and Notice of Allowance and Issue Fee Due mailed July 7, 2004 were not received by the applicants.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(II).

The evidence presented is sufficient to establish that the Notice of Allowability and Notice of Allowance and Issue Fee Due were not received by the petitioner. The evidence provided includes a statement by the petitioner that the Notice of Allowability and Notice of Allowance and Issue Fee Due were not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Notice of Allowability and Notice of Allowance and Issue Fee Due mailed July 7, 2004 were not received. Also provided is a copy of the computer-generated docket record of Oliff & Berridge, where the Notice of

Allowability and Notice of Allowance and Issue Fee Due would have been posted had it been timely received.

Therefore, the Notice of Abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the above noted Notice of Allowability and Notice of Allowance and Issue Fee Due to the correspondence address and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

OLIFF & BERRIDGE, PLC
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DIW Feb-06

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NATIONAL RENEWABLE ENERGY LABORATORY
1617 COLE BOULEVARD
GOLDEN CO 80401

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FEB 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Wanlass et al.	:	DECISION DISMISSING
Application No. 10/275,123	:	PETITION
Filed: 10 March, 2003	:	
Atty Docket No. NREL 02-07	:	

This is a decision on the petition styled under 37 CFR 1.137(b) and 1.181 filed on 1 September, 2005, which is treated as a petition under 37 CFR 1.137(a).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)." This is not a final agency decision.

The application became abandoned on 21 February, 2004, for failure to timely submit the issue and publication fee(s) in response to the Notice of Allowance and Fee(s) Due mailed on 20 November, 2003. Notice of Abandonment was mailed on 19 July, 2005.

Petitioners assert that the holding of abandonment should be withdrawn because a review of the Notice of Allowance revealed that the examiner had inadvertently failed to consider claims contained in the preliminary amendment, and that the examiner orally agreed, prior to the date the issue fee was due, to review those claims and correct the Notice.

Petitioner's argument had been considered. However, as 35 U.S.C. § 151 sets a statutory period of three months from the mailing of

a Notice of Allowance and Fee(s) Due to submit the issue and publication fees, the Office is precluded from waiving the requirement for timely payment of the issue and publication fees. As the issue and publication fees were not timely paid, the application was properly held abandoned, and the holding of abandonment cannot be withdrawn.

However, in view of the unusual circumstances surrounding this application, the Office will consider the delay to have been unavoidable. As such, the petition will be treated under 37 CFR 1.137(a).

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. 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(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The petition must be dismissed, however, because the issue and publication fee(s) have not been paid, and no authorization has been provided to charge the issue and publication fees. However, such dismissal is without prejudice to reconsideration pending submission of the issue and publication fees. Petitioner should submit payment of the issue and publication fees with a renewed petition. No further petition fee is due.

Petitioner will be charged for a petition under 37 CFR 1.137(a) and not under 37 CFR 1.137(b). The excess petition fee will be refunded to counsel's deposit account, No. 14-0460.

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 should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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DIW May-06

PAUL J WHITE
SENIOR COUNSEL
NATIONAL RENEWABLE ENERGY LABORATORY
1617 COLE BOULEVARD
GOLDEN CO 80401

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MAY 26 2006

OFFICE OF PETITIONS

In re Application of	:	
Wanlass et al.	:	DECISION GRANTING
Application No. 10/275,123	:	PETITION
Filed: 10 March, 2003	:	
Atty Docket No. NREL 02-07	:	

This is a decision on the renewed petition under 37 CFR 1.137(a) filed on 9 March, 2006.

The petition is **GRANTED**.

The application became abandoned on 21 February, 2004, for failure to timely submit the issue and publication fee(s) in response to the Notice of Allowance and Fee(s) Due mailed on 20 November, 2003. Notice of Abandonment was mailed on 19 July, 2005. The petition filed on 1 September, 2005, was dismissed on 15 February, 2006.

Receipt of the issue and publication fees are acknowledged.

The application is restored to pending status.

The application is being referred to Technology Center Art Unit 2826 for further processing.

Telephone inquiries should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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JUN - 2 2005

THE FIRM OF KARL F ROSS
5676 RIVERDALE AVENUE
PO BOX 900
RIVERDALE (BRONX) NY 10471-0900

In re Application of	:
Oskar J. Schmidt, et al	:
Serial No.: 10/275,124	: PETITION TO MAKE SPECIAL
Filed: May 10, 2005	:
Attorney Docket No.: 22274	:

This is in response to applicants' petition filed May 10, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant. No fee is required for this petition.

Applicants have 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 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
Special Program Examiner
Technology Center 1600

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JUN 10 2005

THE FIRM OF KARL F ROSS
5676 RIVERDALE AVENUE
PO BOX 900
RIVERDALE (BRONX) NY 10471-0900

In re Application of	:
Oskar J. Schmidt et al	:
Serial No.: 10/275,124	: PETITION TO MAKE SPECIAL
Filed: October 31, 2002	:
Attorney Docket No.: 22274	:

This is in response to applicants' petition filed May 10, 2005, 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 not satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefor the petition is **DISMISSED**.

Applicants have failed to provide proof of age or of medical condition as alleged.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

18 JUN 2004

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#6

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Marshall Honeyman
Shook, Hardy & Bacon LLP
One Kansas City Place
1200 Main Street
Kansas City, Missouri 64105-2118

In re Application of	:	
Cui, Yujie et al	:	
Application No.: 10/275,127	:	
PCT Application No.: PCT/US01/13999	:	DECISION ON
International Filing Date: 01 May 2001	:	
Priority Date: 01 May 2000	:	PETITION UNDER
Attorney Docket No. UNVN.84918	:	
For: LABORATORY AIR	:	37 CFR 1.181 (a)
HANDLING UNIT	:	

This is in response to applicants' papers filed on 06 May 2004.

BACKGROUND

On 01 May 2001, applicant filed international application number PCT/US01/13999 which claimed priority to an earlier filed US Provisional application 60/201,224 filed on 01 May 2000.

On 11 December 2002, a Notice Of Missing Requirements under 35 USC 371, requesting applicant to submit an oath or declaration of the inventors, in compliance with 37 CFR 1.497 (a) and (b), identifying the application number and international filing date.

On 17 October 2003, the United States Patent and Trademark Office issued a notice of abandonment, due to failure of applicant to respond to the notice of missing requirements within the time period set therein.

On 06 May 2004, applicants submitted a petition to withdraw the holding of abandonment.

DISCUSSION

A review of the application file reveals that applicant have provided sufficient evidence to establish that a proper response to the Notification of Missing Requirements (Form PCT/DO/EO/905), in the form of a declaration of the inventors was filed 04 March 2003. The proof is in the form of the copy of the receipt for the present application which bears a PTO

datestamp of "10 MAR 2003: and which itemizes, inter alia, "Declaration". Therefore, in view of the post card receipt and counsel's statement in the present petition that the copy of the declaration as submitted with the present petition is a "copy of the response mailed on 04 March 2003", the copy of the declaration may properly be accepted as having been filed 10 March 2003.

The oath or declaration of the inventors is in compliance with 37 CFR 1.497 (a) and (b), identifying the application number and international filing date.

CONCLUSION

The petition under 37 CFR 1.181 (a) is GRANTED.

The abandonment is hereby withdrawn and the Notice of Abandonment mailed 17 October 2003 is VACATED.

The application has met all of the 35 USC 371 requirements and has an international filing date under 35 U.S.C. 363 of 01 May 2001, and a date under 35 U.S.C. (c)(1), (c)(2) and (c)(4) of 10 March 2003.

The application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing in accordance with this decision.

Michael Lebentritt
Detailee
Office of PCT Legal Administration
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Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration
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#4

27 AUG 2003

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 Wilshire Blvd., Seventh Floor
Los Angeles, CA 90025-1026

In re Application of :
REEVES, Jack H. *et al* :
U.S. Application No.: 10/275,130 :
PCT No.: PCT/NZ01/00067 : **DECISION**
Int. Filing Date: 01 May 2001 :
Priority Date: 01 May 2000 :
Attorney's Docket No.: 37261P079 :
For: AN ELECTRIC FENCE ENERGISER :

The decision is in response to the "Response to Notification to File Missing Requirements Under 35 U.S.C. 371 and Petition Pursuant to Rule 1.47(b)" ("Pet.") submitted on 02 April 2003.

BACKGROUND

On 27 January 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a $65.00 surcharge fee were required. Petitioners were given two-months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 02 April 2003, the 37 CFR 1.47(b) applicant submitted the instant petition which was accompanied by, *inter alia*, a $130.00 petition fee; a $65.00 surcharge fee; an unexecuted declaration; a declaration by Mr. Oatley ("Decl."); a copy of a Deed of Assignment dated 01 May 2000; a copy of a power of attorney for PCT/NZ01/00067; a copy of a PCT Form/IB/306 dated 06 February 2002; a copy of a PCT Power of Attorney; a copy of an employment agreement between Tru-Test Limited and the co-inventors; copies of various postal receipts; and a copy of a letter sent to Mr. Johnson dated 25 October 2002.

DISCUSSION

In the instant petition, the 37 CFR 1.47(b) applicant claims that both inventors, Mr. Jack H. Reeves and Mr. Richard L. Johnson, refuse to cooperate in the national stage application of PCT/NZ01/00067. Accordingly, the requirements of 37 CFR 1.47(b) must be met.

A petition under 37 CFR 1.47(b) requires (1) the petition fee, (2) factual proof that the inventors refuse to execute the application, (3) a statement of the last known addresses of the inventors, (4) an oath or declaration by the 37 CFR 1.47(b) applicant

on behalf of and as agent for the non-signing inventors, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The appropriate petition fee has been paid. The last known addresses of each inventor is listed as:

Jack Reeves
25 Glendale Drive
Hamilton, New Zealand

Richard Johnson
19 Sandalwood Drive
Hamilton, New Zealand

With regard to item (6), section 409.03(g) of the MPEP states 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 to prevent irreparable damage." In the instant petition, the 37 CFR 1.47(b) applicant includes a statement that "a showing has been made that such action is necessary to preserve the rights of the parties and to prevent irreparable damage." Pet. at ¶ 3.

Therefore, items (1), (3) and (6) of 37 CFR 1.47(b) are completed.

Concerning item (2), the 37 CFR 1.47(b) applicant claims that both inventors "refused to sign the Combined Declaration and Power of Attorney and the Assignment for the entry into national phase in the US based on PCT/NZ01/0067. Decl. at ¶ 15. Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) discusses the requirements needed to show that an inventor refuses to join in an application and states, in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney . . .
>
> It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application

> to which the oath or declaration is directed. In re Gray, 115USPQ 80 (Comm'r Pat. 1956) . . .
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Here, the 37 CFR 1.47(b) applicant has not shown that a complete copy of the application, including specification, claims and drawings were sent to both inventors. In his declaration, Mr. Oatley states that "[o]n 25 October 2002, I forwarded to Messrs Reeves and Johnson, by CourierPost, the forms which had been sent to me by Don Hopkins and Associates in respect of the entry into national phase in the US. Id. at ¶ 12. There is no indication that these forms included a complete copy of the application, including the specification, claims and drawings. Moreover, the 37 CFR 1.47(b) applicant has not shown any evidence that they attempted to contact either inventor by telephone or email regarding the above-captioned application. Any evidence to support the 37 CFR 1.47(b) applicant's claims should also be provided. For these reasons, item (2) is not satisfied.

Regarding item (4), the 37 CFR 1.47(b) applicant provided an unsigned declaration. Section 409.03(b) of the MPEP requires petitioner to provide a declaration signed by the 37 CFR 1.47(b) applicant. It states:

> The 37 CFR 1.47(b) applicant must make the oath required by 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 agent 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 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. Where the oath or declaration is being signed on behalf of an assignee, see MPEP § 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. Staeger v. Commissioner, 189 USPQ 272 (D.D.C. 1976), In re Striker,

182 USPQ 507 (Comm'r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

Hence, item (4) is also not satisfied.

Concerning item (5), section 409.03(f) of the MPEP states, in part:

When 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.

If the application has been assigned, a copy of the assignment (in the English language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324). (Emphasis added).

In the instant petition, the 37 CFR 1.47(b) applicant claims proprietary interest in the above-captioned national stage application of PCT/NZ01/00067 through an assignment. The 37 CFR 1.47(b) applicant submitted a copy of a Deed of Assignment dated 01 May 2000 to an invention entitled "An Electric Fence Energiser" which assigned "all their rights in the invention including the right to apply for patent or equivalent protection in any country or countries in the world, to claim priority under international convention from any such application or applications and the rights conferred by such patent or equivalent protection when granted." This assignment is signed by both Mr. Reeves and Mr. Johnson and the Assignee is listed as Ullrich Holdings Limited. In his declaration, Mr. Oatley states that the subject of this assignment was New Zealand patent application 504260. Id. at ¶ 3. PCT/NZ01/00067 claims priority to NZ 504260.

Mr. Oatley then declares that "[i]n May 2001, Tru-Test acquired from Ullrich Holdings Limited a company known as PEL Industries Limited. Prior to the purchase of PEL Industries Limited, Ullrich Holdings Limited assigned all rights in various pieces of intellectual property. This assignment included NZ 504260 and the right to file corresponding patent applications." Id. at ¶ 5. The international application,

PCT/NZ01/00067 was filed with PEL Industries Limited listed as the applicant. The applicant was changed later to Tru-Test Limited. Mr. Oatley claims that PEL Industries Limited assigned its rights in PCT/NZ01/00067 to Tru-Test Limited. Id. at ¶ 7.

This is not sufficient to meet item (5).

The 37 CFR 1.47(b) applicant has not shown a clear chain of title in the above-captioned application. First, there is no evidence that Ullrich Holdings Limited transferred its rights in NZ 504260 to PEL Industries Limited. A copy of the assignment discussed by Mr. Oatley above, is required. In addition, a copy of the assignment of the rights to international application, PCT/NZ01/00067, and any subsequent national stage filings from PEL Industries Limited to Tru-Test Limited is also needed. The employment agreements of Mr. Reeves and Mr. Johnson with Tru-Test Limited dated December 2001 concerns future inventions and has no relevance to the above-captioned application. Finally, the requirements of section 324 of the MPEP must also be met by the 37 CFR 1.47(b) applicant. Therefore, item (5) is not satisfied.

The 37 CFR 1.47(b) applicant failed to meet item(s) (2), (4) and (5), thus, it is not appropriate to accept this application under 37 CFR 1.47(b) at this time.

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required. Extensions of time are available.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

23 APR 2004

#6

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Los Angeles, CA 90025-1026

In re Application of :
REEVES, Jack H. *et al* :
U.S. Application No.: 10/275,130 :
PCT No.: PCT/NZ01/00067 : **DECISION**
Int. Filing Date: 01 May 2001 :
Priority Date: 01 May 2000 :
Attorney's Docket No.: 37261P079 :
For: AN ELECTRIC FENCE ENERGISER :

The decision is in response to the "Request for Extension of Time and Response to Petition" filed 03 March 2004 which is treated as a renewed petition under 1.47(b) ("Ren.Pet."). No fee is required.

BACKGROUND

On 27 August 2003, a decision dismissing applicant's petition under 37 CFR 1.47(b) was mailed. The 37 CFR 1.47(b) applicant failed to meet the requirements of items (2), (4) and (5) of 37 CFR 1.47(b).

On 03 March 2004, petitioner submitted the instant renewed petition which was accompanied by, *inter alia*, a four-month extension request and $1,480.00 fee; a "Statement Under 37 CFR 3.73(b)"; a declaration signed by the 37 CFR 1.47(b) applicant; copies of two letters dated 17 December 2003; a declaration of Donald Leslie Hopkins ("Hopkins Decl."); a copy of an Assignment between PEL Industries Limited and Tru-Test Limited; a copy of an Assignment between Ullrich Holdings Limited and PEL Industries Limited; and copies of two Post Haste Express Packs sent to the nonsigning inventors.

DISCUSSION

As previously stated, the requirements of 37 CFR 1.47(b) include: (1) the petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The 37 CFR 1.47(b) applicant failed to satisfy items (2), (4) and (5) in the initial petition filed 02 April 2003.

Concerning item (2), the 37 CFR 1.47(b) applicant failed to demonstrate that the nonsigning joint inventors received a complete copy of the application, including specification, claims and drawings. In addition, the 37 CFR 1.47(b) applicant failed to provided evidence that they attempted to contact either inventor by telephone or email regarding the above-captioned application.

In the renewed petition, the 37 CFR 1.47(b) applicant included a declaration by Donald Leslie Hopkins who claims that he "sent to each of the inventors a copy of published international patent specification WO 01/84892 (PCT/NZ01/00067)." Hopkins Decl. at ¶ 3. A copy of the letters dated 17 December 2003 sent to the nonsigning joint inventors were included with the renewed petition.

A review of both letters confirms that a copy of the published international patent specification was included with the documents. The 37 CFR 1.47(b) applicant also attests that the copy sent to the joint inventors "is a complete copy of the Application as filed in the U.S., including Specification Claims and Drawings." Ren.Pet. at ¶ 3. In the declaration, Mr. Hopkins "confirmed with the Inventors that the courier packs that enclosed the 17 December 2003 letter and enclosures were duly received. Additionally, the Inventors have confirmed that they still refuse to sign the Combined Declaration and Power of Attorney and the Assignment." Id. at ¶ 8.

This evidence is sufficient to meet the requirements of item (2) of 37 CFR 1.47(b) and is in compliance with section 409.03(d) of the MPEP.

Regarding item (4), the 37 CFR 1.47(b) applicant included a Declaration signed by Keran McCaull as Director for the 37 CFR 1.47(b) applicant. Director is a position recognized as having the authority to sign for a foreign corporation. The declaration included both joint inventors' names, last known addresses, residences and citizenship and is in compliance with 37 CFR 1.497(a) and (b). Therefore, item (4) is satisfied.

Concerning item (5), the 37 CFR 1.47(b) applicant claimed proprietary interest in the above-captioned application using an assignment. However, the assignment submitted in the initial petition showed only that the assignee was listed as Ullrich Holdings Limited. There was no evidence showing that Ullrich Holdings Limited transferred its rights in NZ 504260 to PEL Industries Limited as declared by the 37 CFR 1.47(b) applicant. In addition, a copy of the assignment of the rights to international application, PCT/NZ01/00067, and any subsequent national stage filings from PEL Industries Limited to Tru-Test Limited was also not provided. Finally, it was noted that the requirements of section 324 of the MPEP must also be met by the 37 CFR 1.47(b) applicant.

In the renewed petition, the 37 CFR 1.47(b) applicant has submitted a 'Statement Under 37 CFR 3.73(b)" signed by Timothy James Otley who certifies the chain of title from the joint inventors to the 37 CFR 1.47(b) applicant, Tru-Test Limited.

Moreover, a copy of the executed assignment between Ullrich Holdings Limited and PEL Industries Limited was submitted which assigns "all its rights, title and interest to the patent applications" set out in Schedule 2.

A review of Schedule 2 shows that NZ application number 504260, *An Electric Fence Energiser*, was listed. Further, a copy of the executed assignment between PEL Industries Limited and Tru-Test Limited was filed which transferred "all right title and interest" in PCT/NZ01/00067 including the right to make "National Phase applications for Patent" claiming priority to New Zealand application 504260.

This evidence is sufficient to meet the requirements outlined in section 409.03(f) of the MPEP and item (5) of 37 CFR 1.47(b).

Accordingly, the 37 CFR 1.47(b) applicant has now met all of the requirements of 37 CFR 1.47(b).

CONCLUSION

Applicant's renewed petition under 37 CFR 1.47(b) is **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the non-signing inventor at the last known address of record as set forth in the papers filed 02 April 2003 and a notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 01 May 2001 under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 03 March 2004.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

23 APR 2004

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Richard Johnston
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In re Application of
REEVES, Jack H. *et al*
U.S. Application No.: 10/275,130
PCT No.: PCT/NZ01/00067
Int. Filing Date: 01 May 2001
Priority Date: 01 May 2000
Attorney's Docket No.: 37261P079
For: AN ELECTRIC FENCE ENERGISER

Mr. Johnston:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 Wilshire Blvd., Seventh Floor
Los Angeles, CA 90025-1026

23 APR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Jack Reeves
25 Glendale Drive
Hamilton, New Zealand

In re Application of
REEVES, Jack H. *et al*
U.S. Application No.: 10/275,130
PCT No.: PCT/NZ01/00067
Int. Filing Date: 01 May 2001
Priority Date: 01 May 2000
Attorney's Docket No.: 37261P079
For: AN ELECTRIC FENCE ENERGISER

Mr. Reeves:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 Wilshire Blvd., Seventh Floor
Los Angeles, CA 90025-1026

SPE: E. Look

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/20/06

TO SPE OF : ART UNIT 3745

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/275,169 Patent No.: 6837677

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

Comments: Certificate of correction reintroduces improper multiple dependent claims that had been corrected by examiner's amendment and agreed to by Applicant. The real problem is that PUBS had applied the examiner's amendment to the wrong set of claims which were then printed. A new certificate of correction that applies the examiner's amendment to the correct claim set would be approved.

Eh Look — SPE

3745 — Art Unit

- UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-145

MAR 24 2005

MAILED

MAR 24 2005

OFFICE OF THE DIRECTOR
TC 3600

BANNER & WITCOFF AND ATTORNEYS
FOR ACCENTURE
10 S. Wacker Drive, 30th Floor
Chicago, IL 60606

In re application of
Stephan Lindner
Application No. 10/275,193
Filed: October 31, 2002
For: METHOD AND APPARATUS FOR OFFERING DIGITAL CONTENT FOR SALE OVER A COMMUNICATIONS NETWORK

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on June 15, 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 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 this application is not approved as moot because a revocation of power of attorney to MORRISON & FOERSTER LLP and a new power of attorney to the attorneys of BANNER & WITCOFF AND ATTORNEYS FOR ACCENTURE customer number 29638 was submitted to the United States Patent and Trademark Office on September 10, 2004. The power of attorney therefore has already been withdrawn as per the Notice to that effect mailed September 29, 2004.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 03/15/05

CC: Stephen C. Durant
MORRISON & FOERSTER LLP
425 Market Street
San Francisco, CA 94105-2482

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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Joseph S Tripoli
Thompson Multimedia Licensing Inc
PO Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Thomas Anthony Stahl	: DECISION ON REQUEST FOR
Patent Number	: 7659940	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/275,199	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/01/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2166** 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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FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON, TX 77010-3095

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DEC 22 2005

OFFICE OF PETITIONS

In re Application of :
Admundsen : DECISION ON PETITION
Application No. 10/275,220 :
Filed: November 4, 2002 :
Atty. Dkt. No.: HO-P026775USO :

This is a decision on the petition under 37 CFR 1.137(a), filed October 6, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a) (or, as advised herein, under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned November 17, 2004 for failure to timely reply to the non-final Office action mailed August 16, 2004. The non-final Office action set a three (3) month shortened statutory period of time for reply. No petition for extension of time was timely submitted. Notice of Abandonment was mailed April 1, 2005.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The present petition lacks requirement (3) above. Petitioner has failed to present 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.

The Office may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Petitioner attributes the failure to timely reply to the non-final Office action to docketing error. In accordance with MPEP 700.03(c), "[a] delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that: (1) the error was the cause of the delay at issue; (2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and (3) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care."

In this regard, petitioner indicates that in a letter to applicant requesting instruction for the instant application (U.S. Pat. App. No. 10/275,220), petitioner inadvertently provided applicant with the incorrect internal docketing number which corresponded to a different application (namely, U.S. Pat. Pat. No. 10/257,486). Whereas applicant intended to abandon the '486 application, because the letter to applicant provided the

incorrect internal docketing number, the instant application was allowed to go abandoned.

Petitioner further advises on petition that "the Fulbright handling attorney that inadvertently listed the wrong internal reference number on the October 4, 2004, letter to Håmsø was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon him represented the exercise of due care."

The Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of an applicant, and petitioner is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962). Specifically, the delay caused by mistakes or negligence of a voluntarily chosen representative does not constitute unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Douglas v. Manbeck, 21 USPQ2d (BNA)(1697)(E.D. PA Nov. 7, 1991). Consequently, the delay which petitioner attributes to the docketing error of the Fulbright attorney does not constitute unavoidable delay within the meaning of 37 CFR 1.137(a). Moreover, the delay in submitting a proper reply to the non-final final Office action is imputed to applicant.

ALTERNATE VENUE

Petitioner is **strongly** advised to consider filing a petition stating that the delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if

Application No. 10/275,220

petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand: U.S. Patent and Trademark Office
Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter 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
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FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON, TX 77010-3095

In re Application of :
Admundsen : DECISION ON PETITION
Application No. 10/275,220 :
Filed: November 4, 2002 :
Atty. Dkt. No.: HO-P026775USO :

This is a decision on the renewed petition under 37 CFR 1.137(a), and, alternatively, under 37 CFR 1.137(b), filed January 24, 2006, to revive the above-identified application.

This application became abandoned November 17, 2004 for failure to timely reply to the non-final Office action mailed August 16, 2004. The non-final Office action set a three (3) month shortened statutory period of time for reply. No petition for extension of time was timely submitted. Notice of Abandonment was mailed April 1, 2005. A petition under 37 CFR 1.137 was filed October 6, 2005 and dismissed December 22, 2005.

DECISION UNDER 37 CFR 1.137(a)

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The present petition lacks requirement (3) above. Petitioner has failed to present 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.

The Office may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving

abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Petitioner continues to attribute the failure to timely reply to the non-final Office action to docketing error made by applicant's voluntarily chosen legal representative.

The Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of an applicant, and petitioner is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962). Specifically, the delay caused by mistakes or negligence of a voluntarily chosen representative does not constitute unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Douglas v. Manbeck, 21 USPQ2d (BNA)(1697)(E.D. PA Nov. 7, 1991). Consequently, the delay which petitioner attributes to the docketing error of the Fulbright attorney does not constitute unavoidable delay within the meaning of 37 CFR 1.137(a). Moreover, the delay in submitting a proper reply to the non-final final Office action is imputed to applicant.

DECISION UNDER 37 CFR 1.137(b)

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 attributed to attorney error is accepted as having been unintentionally delayed.

Application No. 10/275,220

This application is being forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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Paper No. 9

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MINT LEVIN COHN FERRIS GLOVSKY AND POPEO PC
ONE FINANCIAL CENTER
BOSTON MA 02111

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NOV 2 0 2003

OFFICE OF PETITIONS

In re Application of :
Markman, et al. :
Application No. 10/275,222 : ON PETITION
I.A. Filing Date: November 3, 2000 :
Priority Date: May 4, 2000 :

This is a decision on the petition under 37 CFR 1.182 to change the name of an inventor, filed October 4, 2003.

Applicant has filed the petition to change the name of inventor Chana Rothman to Chana Rothman-Schertz. Applicant has paid the petition fee and included an affidavit from Chana Rothman-Schertz, stating that her name was changed by reason of marriage, and signed in both her prior and current names.[1]

Accordingly, the 37 CFR 1.182 petition is **GRANTED**.

The application file is being forwarded to the PCT Operations.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] See MPEP 605.04(c).

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P.O. Box 1450
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NEXSEN PRUET JACOBS &
POLLARD
P.O. BOX 10107
GREENVILLE, SC 26903

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JAN 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Gordhandhai Nathalal Patel	:	
Application No. 10/275,228	:	DECISION ON PETITION
Filed: November 4, 2002	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 27845-07	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 4, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by the attorney of record on behalf of applicant Gordhandhai Nathalal Patel. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1797 for action on the merits commensurate with this decision.

Kimberly Inabinet

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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NEXSEN PRUET JACOBS & POLLARD
P O BOX 10107
GREENVILLE, SC 29603

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In re Application of	:	
Gordhandhai Nathalal Patel	:	
Application No. 10/275,228	:	ON PETITION
Filed: November 4, 2002	:	
Attorney Docket No. 27845-07	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 29, 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 February 1, 2008, 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 May 2, 2008. This decision precedes the mailing of a Notice of Abandonment. On August 29, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay[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.

[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.

The application is being referred to Technology Center AU 1797 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JOSEPH T. GUY, PH.D.
NEXSEN PRUET LLC
P.O. BOX 10648
GREENVILLE, SC 29603

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BOWDITCH & DEWEY, LLP
311 MAIN STREET
P.O. BOX 15156
WORCESTER, MA 01615-0156

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SEP 13 2006
OFFICE OF PETITIONS

In re Application of :
Siong Woon Gan :
Application No. 10/275,230 :
Filed: November 4, 2002 :
Patent No.: 6,840,107 :
Issued: January 11, 2005 :
Title of Invention: :
ACOUSTIC MICROSCOPE :

This is a decision on the Petition to Correct the Assignee under 37 CFR 1.183, filed December 1, 2005. The petition is properly treated as a request under 37 CFR 3.81(b)[1].

The Petition is **granted**.

The address on the petition is different from the address of record. If Petitioner desires to receive further correspondence with respect to this application, a change of correspondence address must be filed. A courtesy copy of this Decision is being forwarded to Petitioner at the address appearing on the petition; however, all future correspondence will be sent to address of record until instructions to the contrary are received.

Patentee is further advised that, in patented files: requests for changes of correspondence address, powers of attorney, revocations of powers of attorney, withdrawal of attorney and submissions under 37 CFR 1.501. Designation of, or changes to, a fee address should be addressed to Mail Stop M Correspondence, Director of the U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004

issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Derek L. Woods
Attorney
Office of Petitions

CC: GODFREY & KAHN, S.C.
780 NORTH WATER STREET
MILWAUKEE, WI 53202-3590

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)
6840107	2005-01-11	10275230	2002-11-04	080038-0002

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	/Nicholas A. Kees/	Date (YYYY-MM-DD)	2010-03-30
Name	Nicholas A. Kees	Registration Number	29552

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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6840107
Issue Date: January 11,2005
Application No. 10275230
Filed: November 4,2002
Attorney Docket No. 302522.3000-100

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 30,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 30,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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P.O. Box 1450
Alexandria, VA 22313-1450
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KIRKPATRICK & LOCKHART NICHOLSON GRAHAM LLP
STATE STREET FINANCIAL CENTER
ONE LINCOLN STREET
BOSTON MA 02111-2950

COPY MAILED

APR 2 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Harold M. Aznoian et al.	:	
Application No. 10/275,233	:	DECISION ON PETITION
Filed: March 14, 2003	:	TO WITHDRAW
Attorney Docket No. B0751/7019	:	FROM RECORD AND
	:	REVOCATION REQUEST

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 25, 2003 and the Revocation of Power of Attorney with New Power of Attorney filed September 6, 2005 and March 3, 2006.

The request to withdraw as attorney 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 Arthur Z. Bookstein on behalf of all attorneys of record who are associated with customer No. 22832.

All attorneys/agents associated with the Customer Number 22832 have been withdrawn.

The Revocation of Power of Attorney with New Power of Attorney filed September 6, 2005 and March 3, 2006 are **NOT APPROVED.**

The above revocations are not approved because the requests were not accompanied by a proper statement under 37 CFR 3.73(b).

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed February 23, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to David Bucci at 571-272-7099.

David Bucci
Petitions Examiner
Office of Petitions

cc: Prokauer Rose LLP
Attention: Kristin H. Neuman
1585 Broadway
New York, NY 10036-8299

03 MAR 2006

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P.O. Box 1450
Alexandria, VA 22313-1450
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David P. Halstead
Ropes & Gray
One International Place
Boston, MA. 02110-2624

In re Application of	:	
DESOUSA, et al.	:	
Application No.: 10/275,237	:	DECISION ON PETITION
PCT No.: PCT/SE01/01272	:	
Int. Filing Date: 05 June 2001	:	UNDER 37 CFR 1.10(c)
Priority Date: 08 June 2000	:	
Atty. Docket No.: ASZD-P01-346	:	
For: ASSAY FOR DETECTION OF TRANSLOCASE	:	
ENZYME ACTIVITY IN DRUG SCREENING	:	

This is a decision on applicant's "Petition to Correct Filing Date Under 37 CFR 1.10(c)" originally filed 27 February 2003 and filed again by facsimile on 21 February 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 05 June 2001, applicant filed international application PCT/SE01/01272 which claimed priority to an earlier application filed 08 June 2000. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 08 December 2002.

On 14 February 2003, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903) indicating a 371 date of 05 November 2002.

On 21 February 2006, applicant filed the present petition and request for corrected filing receipt indicating that the papers at issue, satisfying the 35 U.S.C. 371 requirements, were filed 04 November 2002.

DISCUSSION

37 CFR 1.10(c) states: Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other

official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant has satisfied all three items above. In addition, a review of the USPS track and confirm website shows a date of acceptance by the USPS of "11/04/02 9:44pm." Therefore, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.10 is **GRANTED**.

The application will be given an international filing date of 05 June 2001 under 35 U.S.C. 363 and a date of **04 November 2002** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) mailed 14 February 2003 indicating a date of 05 November 2002 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) indicating the correct 371 date as detailed above.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

#3

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11 AUG 2003

Robert Valentine Kasowski
2153 Brinton Bridge Road
West Chester, PA 19382

In re Application of	:	
Kasowski et al.	:	
Serial No.: 10/275,239	:	DECISION ON
PCT No.: PCT/US01/09514	:	PETITION
Int. Filing Date: 27 March 2001	:	UNDER 37 CFR 1.137(b)
Priority Date: 07 April 2000	:	
Attorney's Docket No.: 0001	:	
For: ACID-METHYLOL COMPOUND	:	
REACTION PRODUCTS FOR FLAME	:	
RESISTANCE	:	

This decision is responsive to the "PETITION FOR REVIVIAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed 29 October 2002. Applicant included $640 of the petition fee.

BACKGROUND

On 27 March 2001 applicants filed international application PCT/US01/09514, which claimed priority of earlier United States provisional applications, the earliest of which was filed 07 April 2000. A copy of the international application was received by the United States Patent and Trademark Office from the International Bureau on 18 October 2001. The twenty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 07 December 2001.

On 29 October 2002, applicants filed the current petition along with a transmittal letter for entry into the national stage in the United States. The transmittal letter was accompanied by a declaration, a petition to revive, a check for $640 for the petition to revive and a check for $507 for the basic national fee, the fee for filing the oath/declaration after 30 months, and extra claim fees. These papers were assigned Application No. 10/275,239.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional delay must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied (1) by a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) by a proper reply, (3) by the petition fee required by law (37 CFR 1.17(m)), and (4) if the international filing date of the application is before June 8, 1995, any petition to revive under 37 CFR 1.137(b) must be accompanied by a terminal disclaimer and small entity fee of $55

Applicants have provided a the required statement, a proper reply and the petition fee. .

CONCLUSION

The petition to revive the application is **GRANTED**.

The application is being returned to the United States Designated/Elected Office for processing in accordance with this decision; and, if appropriate, a Notification of Acceptance of Application (Form PCT/DO/EO/903) will be mailed showing a 35 U.S.C. 371 date of 29 October 2002.

Debra Brittingham
PCT Legal Office
DSB/RC:dsb

Conferee: Richard Cole
PCT Legal Examiner
PCT Legal Office

Tel: (703) 305-3401
Fax: (703) 308-6459

25 JUN 2004

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Norman Oblon
Oblon Spivak McClelland Maier & Neustadt
1940 Duke Street
Alexandria, Virginia 22314

In re Application of	:	
BALESTRIERI et al.	:	
Serial No.: 10/275,252	:	
PCT No.: PCT/IB01/02721	:	DECISION ON PETITION
Int. Filing Date: 24 December 2001	:	
Priority Date: 27 December 2000	:	
Atty. Docket No.: 230418US0PCT	:	
For: A PROCESS FOR CROSSLINKING	:	
AN ACRYLIC POLYMER OR	:	
COPOLYMER. . . .		

This decision is in response to applicants' "Petition to Commissioner under 37 CFR 1.181" filed 01 March 2004 which is being treated as a request for corrected filing receipt. Applicants are requesting that this application properly acknowledge the claim to foreign priority (Italian application number B02000A000745 filed 27 December 2000) on the Official Filing Receipt. No petition fee is due.

BACKGROUND

On 24 December 2001, applicants filed international application PCT/IB01/02721, which claimed priority of an earlier Italian application filed 27 December 2000. A Demand was filed with the International Preliminary Examining Authority, in which the United States of America was elected, prior to the 19th month, as a result the deadline for payment of the basic national fee was extended to expire 30 months from the priority date, or on 27 June 2003.

On 07 November 2002, applicants filed the present application. The application papers filed therewith included a Transmittal Letter to the United States Designated/Elected Office Concerning a Filing under 35 U.S.C. 371; a check in the amount of $625 ($585 to cover the basic filing fee and $40 for an assignment recording fee); a copy of the international application; and an executed declaration. The application was processed as a filing under 35 U.S.C. 371.

On 27 May 2003, a Notification of Acceptance was issued identifying the 35 U.S.C. 371(c) date as 07 November 2002. Subsequently, an Official Filing Receipt was issued

indicating a "FILING DATE" of 07 November 2002.

On 01 March 2004, applicants filed "Petition to Commissioner under 37 CFR 1.181."

DISCUSSION

As stated above, applicants are requesting that this application properly acknowledge the claim to foreign priority, Italian application number B02000A000745, filed 27 December 2000, on the Official Filing Receipt. Section 1893.03(c) Manual of Patent Examining Procedure states: a national stage application which includes a priority claim under 35 U.S.C. 119(a) and 365(b) must refer to a priority application, the priority of which was also claimed in the international stage of the international application. If the 35 U.S.C. 119(a) and 35 U.S.C. 365(b) priority claim is to an application, the priority of which was properly claimed in the international stage of the international application, the claim for priority is acknowledged and the national stage application file is checked to see if the file contains a copy of the certified copy of the priority document submitted to the International Bureau. In this case, it is proper to identify Italian application number B02000A000745 (filed 27 December 2000) under "Foreign Applications" on the Official Filing Receipt.

CONCLUSION

The petition under 37 CFR 1.181 to correct the Official Filing Receipt is **GRANTED**.

A corrected Official Filing Receipt which identifies this application as a national stage application of PCT/IB01/02721 and Italian application number B02000A000745, filed 27 December 2000, under "Foreign Applications" on the Official Filing Receipt has been mailed to applicant.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

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1725 K STREET, N.W.
SUITE 1108
WASHINGTON, DC 20006

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APR 25 2006
OFFICE OF PETITIONS

In re Application of :
Tomas Kramer et al :
Application No. 10/275,264 : ON PETITION
Filed: January 9, 2003 :
Attorney Docket No. ATM-2282 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 24, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 15, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This application is being referred 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 Amendment and 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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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

www.uspto.gov

Date : April 25, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Tomas Kramer et al
Application No. : 10/275,264
Filed : January 9, 2003

The above-identified application has been assigned Patent No. 7,040,769 and an issue date of May 9, 2006.

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 9, 2006:

"All reference to Patent No. 7,040,769 to Tomas Kramer et al of Grunenplan, GERMANY for REFLECTOR appearing in the Official Gazette of May 9, 2006 should be deleted since no patent was granted."

Wan Laymon
Petitions Examiner
Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie)
Duane Davis (CDS)

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Finnegan Henderson Farabow
Garrett and Dunner
1300 I Street N W
Washington DC 20005

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JUN 1 4 2004

OFFICE OF PETITIONS

Applicant: Avner et al.
Appl. No.: 10/275,300
Filing Date: November 4, 2002
Title: IDENTIFICATION OF NEURAL DEFECTS ASSOCIATED WITH THE NUCLEOSOMAL ASSEMBLY PROTIEN 1L 2 GENE POLYCYCLIC ARYL AND HETEROARYL SUBSTITUTED 4-PYRIDONES USEFUL FOR SELECTIVE INHIBITION OF THE COAGULATION CASCADE
Attorney Docket No.: 3495.0241-00
Pub. No.: US 2004/0029822 A1
Pub. Date: February 12, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on March 31, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains an error in the title on the front page of the patent application publication, wherein "Identification Of Neural Defects Associated With The Nucleosomal Assembly Protien 11 2 Gene Polycyclic Aryl And Heteroaryl Substituted 4-Pyridones Useful For Selective Inhibition Of The Coagulation Cascade" is misprinted as "Idetification Of Neural Defects Associated With The Nucleosomal Assembly Protien 11 2 Gene Polycyclic Aryl And Heteroaryl Substituted 4-Pyridones Useful For Selective Inhibition Of The Coagulation Cascade". Applicant argues that the "mistake is clearly material as it impedes the public's ability to appreciate the technical disclosure of the patent application publication."

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

The instant request identifies a minor typographical error in the title of the invention, wherein

[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).

"Identification"is misprinted as "Idetification", which is not a material mistake because the technical disclosure and the claims are understandable, as the phrase is correctly spelled throughout the specification. The typographical error identified by applicant is an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b). The error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

On August 19, 2003, a Filing Receipt (copy enclosed) was mailed listing the title of the invention as a "Idetification Of Neural Defects Associated With The Nucleosomal Assembly Protien 11 2 Gene Polycyclic Aryl And Heteroaryl Substituted 4-Pyridones Useful For Selective Inhibition Of The Coagulation Cascade". To avoid this type of problem in the future, applicant's representative should make request a corrected filing receipt using the facsimile number (703-746-9195) on the Filing Receipt.

Applicant's request for a corrected patent application publication on March 31, 2004, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The application will be examined in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosures: Filing Receipt

11 MAR 2004

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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ANTONELLI TERRY STOUT AND KRAUS
Suite 1800
1300 North Seventeenth Street
Arlington, VA 22209

In re Application of: AEBI, Walter, et al.	:	
U.S. Application No.: 10/275,314	:	
PCT No.: PCT/EP01/04376	:	DECISION ON PETITION
International Filing Date: 18 April 2001	:	UNDER 37 CFR 1.47(a)
Priority Date: 05 May 2000	:	
Attorney's Docket No.: 306.42201X00	:	
For: METHOD FOR INSTALLING AN IGNITION	:	
SYSTEM AND IGNITION SYSTEM	:	

This decision is issued in response to applicants' "Petition Under 37 CFR 1.47(a)" filed 28 October 2003. Applicants have paid the required petition fee.

BACKGROUND

On 18 April 2001, applicants filed international application PCT/EP01/04376 which claimed a priority date of 05 May 2000 and which designated the United States. On 15 November 2001, a copy of the international application was communicated to the USPTO by the International Bureau (IB).

A Demand was filed with the International Preliminary Examining Authority electing the United States prior to the expiration of 19 months from the priority date. As a result, the deadline for submission of the basic national fee was thirty months from the priority date, i.e., 05 November 2002.

On 05 November 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and an English translation of the international application.

On 03 April 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an executed declaration in compliance with 37 CFR 1.497 and the $130 surcharge for filing the declaration later than thirty months after the priority date were required.

On 28 October 2003, applicants filed a response to the Notification Of Missing Requirements that included payment of the required surcharge and extension fee, a declaration executed by three of the four applicants, and the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the application without the signature of the remaining inventor, Walter Aebi, whom applicants assert has refused to execute the application.

DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the non-signing inventor; (3) an oath or declaration by the other inventors on behalf of themselves and the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

The petition here was accompanied by the required petition fee and includes a statement of the nonsigning inventor's last known address. Items (1) and (2) are therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Procedure ("MPEP") states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed a declaration executed by three of the four inventors and including an unsigned signature box identifying the nonsigning inventor (Walter Aebi). This application is treated as having been executed by the available inventors on their behalf and on behalf of the nonsigning inventor. Item (3) is therefore satisfied.

Regarding item (4), the petition asserts that the nonsigning inventor has refused to execute the application. The petition is accompanied by a copy of a letter signed by the nonsigning inventor Walter Aebi in which Mr. Aebi specifically states that he will not participate in the US national stage of PCT/EP01/04376. This submission is accepted as evidence that the nonsigning inventor refuses to execute the present application. Item (4) is therefore satisfied.

Applicants have satisfied all the requirements of a grantable petition under 37 CFR 1.47(a). Accordingly, the petition is appropriately granted.

CONCLUSION

The petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address set forth in the Petition, and notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the PCT Operations Division for further processing in accord with this decision. The 35 U.S.C. 371 date is 28 October 2003.

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